NOVEMBER 15

9:30 a.m.

Foreign Relations

To continue hearings on the following international treaties proposing human rights: the International Convention on the Elimination of All Forms of Racial Discrimination Treaty (Exec. C, 95th Cong., 2d sess.); the International Covenant on Economic, Social and Cultural Rights Treaty (Exec. D, 95th Cong., 2d sess.); the International Covenant on Civil and Political Rights Treaty (Exec. E, 95th Cong., 2d sess.); and the American Convention on Human Rights Treaty (Exec. F, 95th Cong., 2d sess.).

4221 Dirksen Building

Governmental Affairs

Intergovernmental Relations Subcommittee

To resume oversight hearings to examine the scope of the general revenue sharing policy.

3302 Dirksen Building

NOVEMBER 16

9:30 a.m.

Foreign Relations

To continue hearings on the following international treaties proposing human rights: the International Convention on the Elimination of All Forms of Racial Discrimination Treaty (Exec. C, 95th Cong., 2d sess.); the International Covenant on Economic, Social and Cultural Rights Treaty (Exec. D, 95th Cong., 2d sess.); the International Covenant on Civil and Political Rights Treaty (Exec. E, 95th Cong., 2d sess.); and the American Convention on Human Rights Treaty (Exec. F, 95th Cong., 2d sess.).

4221 Dirksen Building

NOVEMBER 20

9:30 a.m.

*Commerce, Science, and Transportation

Science, Technology, and Space Subcommittee

To resume hearings on S. 1250, to develop techniques for analyzing and stimulating technological and industrial innovation by the Federal Government.

5110 Dirksen Building

SENATE—*Tuesday, October 16, 1979*

(Legislative day of Monday, October 15, 1979)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by Hon. DAVID PRYOR, a Senator from the State of Arkansas.

PRAYER

The Reverend Hensel E. Hendrickson, Trinity Evangelical Lutheran Church, Bismarck, N. Dak., offered the following prayer:

Let us pray.

Our heavenly Father, we thank You for the blessings that You have so graciously given to us as a nation.

This place, O Lord, abounds in silent testimony of Your abundant love and Your abiding presence. Help us to be a grateful people by living out Your promises—not in fear but in faith. May we, by Your power, lift up our dreams and our designs of what this country is and could be rather than to find contentment by leaning on the shaky supports of lethargy and lack of vision. Keep us ever mindful of Your light that does not fade and Your love that does not fail. Be with this assembly this day.

In Your name we pray. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. MAGNUSON).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., October 16, 1979.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable DAVID PRYOR, a Senator from the State of Arkansas, to perform the duties of the Chair.

WARREN G. MAGNUSON,
President pro tempore.

Mr. PRYOR thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a brief period for the transaction of routine morning business and that Senators may speak therein up to 10 minutes each and that the period not extend beyond 20 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Is there morning business?

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Is there further morning business? If not, morning business is closed.

DEPARTMENT OF THE INTERIOR APPROPRIATIONS, 1980

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of H.R. 4930, which the clerk will state.

The legislative clerk read as follows:

A bill (H.R. 4930) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1980, and for other purposes.

The Senate resumed consideration of the bill.

Mr. ROBERT C. BYRD. Mr. President, recent events have underscored the dangers inherent in this Nation's unchecked and rapidly increasing—dangerously increasing—dependence on foreign oil. The continued flow of American dollars abroad to pay for high priced imported oil is a major cause of the current inflationary spiral that is beginning to cripple our economy.

We have only to look at the stories in today's newspapers, and I quote from a story that appeared in one of the local newspapers today.

Yesterday Libya, America's third largest supplier of oil, and Iran announced price boosts of $2.77 and $2.87 per barrel respectively, thereby exceeding OPEC's official ceiling price of $23.50.

So, Mr. President, those were just two oil-exporting countries which are raising the price of oil once again.

I also saw an indication in the press today or yesterday, to the effect that Mexico is going to increase its oil prices.

Mr. President, our own national security is critically linked to a thin line of oil tankers spread throughout the world, and so not only do we have this growing problem of oil supply and oil pricing that underlies the inflationary spiral, but the fact that we cannot rely on an assured supply of oil affects our national security interests.

Increased prices for oil have a serious impact on the stability of the dollar. They constitute a very vital and adverse factor in our trade imbalance and, as I say, constitute a major factor in inflation.

As the distinguished Senator from Washington (Mr. JACKSON) yesterday pointed out, next year this country will be paying more than $70 billion to import oil. This year it is, I think the figure is something like $65 billion—$65 billion to import oil, to keep the gasoline in the tanks.

The slightest shift in world oil supplies could be the signal for a crisis of international proportions. The urgent need to free ourselves from this excessive dependence cannot be too often repeated.

Mr. President, I intend to speak for another 10 or 15 minutes. Does the distinguished Senator from Wisconsin wish to make a statement at this time?

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

Mr. PROXMIRE. No. Go ahead.

Mr. ROBERT C. BYRD. Mr. President, today, each Member of this body has an opportunity to help turn this Nation away from more OPEC price increases and the ever-present threat of energy supply shortages. Today, we can embrace a commitment for action and take a step toward energy self-sufficiency.

My amendment—previously incorporated in the appropriations bill for the Department of Interior and related agencies, allots $20 billion for the production of alternative fuels. This provision is the best possible national insurance policy and is expressive of a consensus emerging in Congress that we must act now to do something that we should have done a long time ago to make optimum use of our own plentiful energy supplies.

The Appropriations Committee recommended a total appropriation for this alternative fuels program of $20 billion. Money was put in at the subcommittee level of the subcommittee which I chair. We had a fight on it in the Appropriations Committee. The Appropriations Committee one day knocked it out and the next day regained its equilibrium and its good commonsense and reinstituted the money. As my colleagues are aware, I moved yesterday to strip the bill of this provision, and have offered it as a floor amendment.

Part of this funding, $1.5 billion, will come from a transfer of prior-year appropriations from the strategic petroleum reserve. As Congress has not yet completed action on pending legislative proposals to expedite synthetic fuels production, the committee has recommended appropriating the full $20 billion to a special Treasury account called the energy security reserve. Commercial incentives will be available from this reserve for oil shale and biomass fuels as well as liquids and gases from coal.

Of the total, $2.2 billion will be immediately available for loans for site feasibility studies of potential synthetic fuel plants and for purchase agreements and price supports for alternate fuels production. The balance will remain in the energy security reserve until it is specifically made available in future appropriations acts once program authorizations have been enacted. Appropriations control will be maintained until a clear definition of synthetic fuel development authority has been approved by the Congress. However, these funds can be transferred to any independent energy production corporation if such an entity is subsequently created.

The urgent need to reduce American dependence on imported oil has generated a number of proposals to stimulate the development of a synthetic fuels industry. At the time the gas lines were longest—and they will be out there again, Mr. President; in my judgment, they have only gone away temporarily, and I hope they will never come back, but I am afraid they will be back—but at the time they were longest, the House passed legislation in the form of an amendment to the Defense Production Act, to provide Federal support for a synthetic fuels initiative. Major synthetic fuels bills are now pending before various Senate committees.

By taking this action, the Appropriations Committee did not, in any way, intend to prejudge the merits of the numerous proposals currently under consideration. However, the committee does intend its action to stand as an expression of national commitment to the curtailment of petroleum imports and to the creation of an alternate fuels production capacity.

That objective will not be realized tomorrow or next week, but if Congress had taken this action 10 years ago we would be closer to it now. And if at some future time we hope to accomplish this objective, we have to start sometime, somewhere. A journey of a 1,000 miles begins with the first step. So the committee's action constitutes a commitment that we are going to proceed down that road in a commonsense way. The committee does intend the adoption of this proposal to stand as a statement of the Senate's determination to overcome the strategic and economic vulnerability which the United States now faces on account of our overdependence on foreign oil.

There can be no question that synthetic fuels offer a long term solution to our energy problems. In the near term, much more must be done to conserve energy and to expand the output of existing types of domestic energy resources. We must bring about conversion by public utilities from oil and natural gas to coal. Removing unreasonable regulatory constraints is also a critical component in the effort to increase domestic energy supplies. However, the needs of our complex society make it imperative that we do more now to accelerate the introduction of new energy resources and in particular, to develop alternate methods to produce liquid fuels.

Coal gasification and the extraction of liquid fuel from both coal and oil shale constitute two of the most promising energy alternatives. Coal is our most abundant energy resource. With known recoverable deposits of 215 billion tons, coal accounts for almost 85 percent of our fossil fuel reserves and at present production rates, the supply could last about 300 years. But coal constitutes only about 18 percent of the total energy that we use in this country. Coal gasification and liquefaction require no technological breakthroughs. The basic technique was discovered many years ago and South Africa has been producing coal liquids on a commercial scale for almost 25 years.

What is needed are demonstrations of commercial feasibility. Because they can provide fuel for vehicles and other types of transport, synthetic fuels from coal and oil shale are of particular value to an America dependent upon a vast transportation network. Furthermore, the commercial scale production of synthetic gas from coal can help replace petroleum products in many applications, thereby making it possible to reserve more domestic oil for transportation. The immediate need is to develop a number of commercial-size synthetic fuel plants that would be sufficient to demonstrate the technology, environmental effects, and economic practicality of various synfuel options. This will provide the base for subsequent rapid expansion to a full scale production goal in later years.

I wish to note that the committee has strongly endorsed the construction of two solvent refined coal demonstration plants through appropriations in the fossil energy research and development area. This appropriation is separate from the creation of the energy security reserve. The administration has now reversed its earlier position, calling for design competition between SRC I and SRC II demonstration plants, and has finally submitted a budget amendment, at my request, to support the immediate construction of both SRC I and SRC II facilities. Proceeding as rapidly as possible with these two plants, one of which will be located in Morgantown, W. Va., is consistent with the urgent national need to develop an alternate fuels capacity.

For the past several weeks, this Chamber has echoed with the call of those Senators who are concerned about our defense capabilities and our strategic posture around the world. I believe that one of the most important investments we can make to strengthen our national security is the investment in alternate fuel capability. There is no wiser national security program we can adopt than to move toward energy self-sufficiency. The longer we delay in developing a synthetic fuels industry, the more vulnerable this Nation becomes to the whims of the oil-exporting countries.

Some may argue that the costs of Government assistance in the synthetic fuel area are unnecessarily high, especially in this time of tight budgets. But while such costs may be substantial, the costs of not proceeding with the development of new energy technologies will be even higher. The Appropriations Committee could not adopt a go-slow attitude in light of the mood of national urgency to move ahead with this program. Synthetic fuels production is imperative, and the action of the Appropriations Committee is a responsible and effective means of advancing this priority.

I hope the Senate will support this initiative.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, what is the pending business?

The ACTING PRESIDENT pro tempore. The pending business before the Senate is H.R. 4930.

Mr. PROXMIRE. And, I take it, there is an amendment pending to that bill?

The ACTING PRESIDENT pro tempore. The Senator is correct.

Mr. PROXMIRE. And that amendment is the Byrd amendment which would provide $20 billion for a trust fund which could be used for synthetic fuels; is that it?

The ACTING PRESIDENT pro tempore. The Senator is correct. That amendment is pending.

Mr. ROBERT C. BYRD. It creates an energy security reserve.

Mr. PROXMIRE. Yes, it has been broadened by the Tsongas amendment, so it is not only synthetic fuels but for other purposes.

Mr. ROBERT C. BYRD. Yes.

Mr. PROXMIRE. Mr. President, the difference of opinion between the distinguished Senator from West Virginia, our majority leader, and the Senator from Wisconsin and, perhaps, a few others, has nothing to do with the fundamental issue. The issue is very important, and we all agree wholeheartedly in meeting the energy crisis as promptly as possible, meeting it swiftly and meeting it effectively. There is no issue on that.

The issue is on the procedure, and the procedure in this case is very, very important. I happen to be chairman of the Banking Committee. We worked and worked hard on this matter. We had hearings, extensive hearings, that lasted a number of days. We had witnesses come in; we went to great pains to mark up our bill. We wrote a report on our bill, and we came to the floor with a report. It is pending and is pending now. That bill provides $3 billion for synthetic fuels; it provides about $9 billion if it is compared to what the Energy Committee did, because we have a 3-to-1 ratio on guaranteed loans.

Now, Mr. President, the Appropriations Committee, of which I am also a member, has gone ahead and ignored, in my judgment, what the authorizing committee has done.

Mr. President, we have, I think, a procedure which is not only respected, but is necessary. It is necessary that we have an opportunity for authorizing committees to set the framework within which appropriations are made, to establish the limits; I think we all recognize that. We sometimes appropriate the full amount authorized; very often we do not. Usually we do not. We rarely exceed that limit.

As I say, the Banking Committee, which was given the responsibility—because we do have the responsibility for credit, we have jurisdiction in that area, and of course this is a massive credit proposal, with great effect on our markets—made the best judgment we could, based on overwhelming testimony before us, which was that synthetic fuels could proceed with a much more modest authorization and expenditure.

Maybe we were wrong. Very possibly we were wrong. No question about it, the Energy Committee has great expertise in this area, and they may have been right. They felt that more money could have been spent, and they have decided, in the Energy Committee, to provide an authorization for synthetic fuels at about $20 billion. That energy bill will be on the floor in a few days.

What we are doing with the Byrd amendment is not to provide an appropriation which can be spent tomorrow or the next day. All we are providing with the Byrd amendment is the assertion, the symbolism, that we intend to support synthetic fuels, and now, with the Tsongas amendment added, to provide other funds.

It has been asserted again and again that we cannot spend this money without a further authorization and appropriation. So what good does it do, except to insult our committee, except to provide that we are going to evade the rules of the Senate, which we can do because of the germaneness technique, which I have heard many Senators, including our leadership, deplore in the past, but which is now being used to circumvent the opportunity for us to decide whatever level at which we will support synthetic fuels?

As I say, we may have been wrong in the Banking Committee in providing a lower level. But we should at least have an opportunity to have our hearings record discussed and debated on the floor, and our committee report read and discussed by Senators. But that is all out the window now, because of the Byrd amendment, with the further amendment by Mr. TSONGAS, providing a commitment of $20 billion for synthetic fuels and other purposes.

I have great respect for our majority leader. I think he is a fine majority leader. I have been here for 20 years, and cannot recall any other majority leader who has been as fair and as considerate as he has been. But I do think in this case a movement to go ahead with an appropriation which can really accomplish no practical purpose, before we have an opportunity to consider fairly the authorization, is a mistake; and I do hope, with all respect, as I say, for our fine majority leader, that the Senate will carefully consider the advisability of voting down the Byrd amendment when it comes up for a vote today.

I realize that is asking a great deal, because I realize the administration as well as the leadership has worked hard to line up votes in favor of the Byrd amendment. But I think, if we are going to stand up for our procedures, that we should sustain our committees, giving them an opportunity to act in an orderly way, and that if Senators realize there is no practical advantage in passing the Byrd amendment, they will consider going the way they should go, first with the authorization process, and then moving ahead with the appropriation.

The ACTING PRESIDENT pro tempore. The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished Senator from Wisconsin (Mr. PROXMIRE) for his kind remarks concerning me, and I want to reciprocate. He is a very studious Senator, and a very able Senator, and very dedicated. As an indication of the kind of dedication that Senator PROXMIRE has demonstrated, he has an unbroken rollcall record, I guess, of more than——

Mr. PROXMIRE. Six thousand.

Mr. ROBERT C. BYRD. In more than 6,000 rollcall votes, he has not missed a rollcall. That is a record since 1789, when the Senate first was organized and adopted Senate rules, and operated the first 5 years behind closed doors. That record has never been matched, and I doubt that it will ever be matched before the crack of doom.

But he can be wrong. I can be wrong. He says there is no real practicality to proceeding with this proposal.

Well, let us take it from the beginning. Let us take the distinguished Senator's argument. Of course he is against the amendment, and he states that it is being brought up here in a way that is not in conformity with established procedures. I guess that, in essence, fairly characterizes what the Senator says.

He says that even the leadership itself has deplored the procedure of going the route of attaching legislation to an appropriations bill and raising the question of germaneness.

Well, what this Senator, in my news conference of last Saturday, deplored was something that is quite different from what we have seen here, and I am able to explain that. The story appeared in one of the newspapers on Sunday, and it was quoted yesterday by my good friend from New Mexico (Mr. SCHMITT).

But in reality, I spoke on the subject for perhaps 10, 15, or 20 minutes in that news conference. The news reporter did not intend for every word that I had said to be repeated in his story. There was no necessity for that, nor did I expect it. But I did have some words to say about this business of delaying appropriations bills by attaching legislative riders that had not received hearings in the authorization committees, dealing with substantive matters that had not received hearings in the appropriations committees, and riders which did not resolve the substantive issue at all, but were used repeatedly to tie up the appropriations process.

That is quite different from what we have in this instance. Here we are talking about synthetic fuels. The substantive legislation on synthetic fuels has already passed the other body. The substantive legislation on synthetic fuels has already proceeded almost to the point of being reported out by Mr. JACKSON's Energy Committee in the Senate. So, first, the subject matter has been the subject of action by the substantive committee in the other body, and the synthetic fuels section of the energy bill has already been marked up by the Energy Committee in this body.

So this is not a back door approach. This is not an attempt to do something on an appropriations bill that otherwise would not be done.

This amendment is not in that category of riders which come back year after year without resolving any substantive issue.

The substantive matter at issue here has been studied and acted upon by the legislative committees which have jurisdiction over this substantive matter. An authorization will be in place in the near future. So that is different, different from the subject which I was addressing on Saturday.

Secondly——

Mr. PROXMIRE. Will the Senator yield at that point?

Mr. ROBERT C. BYRD. Not yet, but I will be so courteous as to see that the

Senator from Wisconsin gets the floor in a moment. I will not deprive him.

The Interior Appropriations Subcommittee did hold hearings on this matter. I conducted the first 2 hours of that hearing. The Secretary of the Department of Energy Duncan appeared before that subcommittee; Mr. Deutch, the Under Secretary appeared. Those hearings went on all day. Mr. HUDDLESTON, the acting chairman of the subcommittee, conducted the hearings. The previous week, hearings had been conducted as to the technical aspects of synthetic fuels, and so on. So hearings were conducted by the Appropriations Subcommittee on this matter.

There are two points that are different from the situation that we have been facing and to which I addressed my remarks on last Saturday.

Thirdly, the administration sent up a budget amendment asking for $20 billion. The House had acted on the appropriations bill before the August recess, and such a budget request had not been lodged with the House by the administration. But when it came time for the Senate committee to conduct its work on the bill, the administration sent up its budget request for $20 billion, which is often done. It is not a precedure unheard of around here. The committee acted in support of that proposal.

So much for what the majority leader may have said or did say in his news conference last Saturday. What I addressed my remarks to last Saturday was not on all fours with the matter we have before us, but, to the contrary, every leg of that argument which I used on Saturday still stands and is not apropos to the situation we have here.

The distinguished Senator from Wisconsin has said that there is no practicality in proceeding in this way; it is just a symbol. Well, let him tell the folks in Wisconsin that. I am sure he can very ably present his case on the stump anywhere, if I am any judge of the election records up there.

But that argument will not stand the light of scrutiny, asking for action by the authorizing committee to act. As I have already stated, the authorizing committee in the House has already acted and the authorizing committee in this Senate has acted. But the authorizing committee in the House and the Appropriations Committee in the House are two things we should take a look at.

If we do not approve an appropriation for alternative fuels, the only matter that will be in conference on this bill when it goes to conference will be the House version. That version, unlike ours, does prejudge a legislative program. It funds only the so-called Moorhead bill. It gives no support—none, n-o-n-e—to the legislation that is being developed by the Senate Energy Committee. It gives no support to the legislation that has been supported by the administration. It gives no support to the budget amendment that has been sent up to the Congress subsequent to the action by the House.

That is all we are going to have in conference if we do not have this amendment.

By the time this bill is in conference, and probably before it is completed, it is possible—even likely—that the Senate will have acted upon the energy authorization bill.

The Senator says it will require further action. Yes, it will require further action in the form of a concurrent resolution dealing with this, once the authorizing committees have completed their work. But for now the money will be placed in an energy security reserve so that we know that the appropriation is there, and at such time as the authorizing committees have completed their work, then that money can be transferred to the Energy Security Corporation, or whatever entity is created by the authorizing committees. We will not need a second supplemental appropriation bill, at this late date.

Thanksgiving is close and Christmas is not far away. Once the authorization measures have been approved, there would have to be an appropriations to fund those authorizations if this amendment is not adopted. The prospects for a second supplemental appropriation bill at this time I would not deem to be very good. The House schedule for November and December does not provide any real opportunity for the consideration of a supplemental appropriations bill on synfuels.

The House leadership, I am told, only intends to hold pro forma sessions during most of November and December. So passage of this amendment today will expedite the appropriations process and will make money available subject to actions by the two bodies in the way of a concurrent resolution to fund the authorizing legislation when it is passed.

So there is a practical reason, and a good one, for proceeding in this manner. It is not mere symbolism.

Mr. President, I hope that the Senate will act favorably on the amendment today.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, yesterday I had a brief exchange with my good friend from West Virginia on getting recognition more than once on the same matter. As a matter of record now, does the record show that the Senator from Wisconsin is being recognized for the second time and that the Senator from West Virginia has been recognized twice on this pending amendment? Is that correct?

The ACTING PRESIDENT pro tempore. The Chair keeps no record on that subject.

Mr. PROXMIRE. When I came in this morning the distinguished leader was speaking on this floor. When I finished, I sat down and yielded the floor. The Senator from West Virginia then had the floor.

Mr. ROBERT C. BYRD. Will the Senator yield to me? I will answer the Senator's question.

Mr. PROXMIRE. Yes, I yield.

Mr. ROBERT C. BYRD. Yes, I have been recognized twice on the same subject. But on yesterday I had not been recognized twice, about this matter.

Mr. PROXMIRE. Well, the Senator——

Mr. ROBERT C. BYRD. Will the Senator allow me——

Mr. PROXMIRE. I have the floor.

Mr. ROBERT C. BYRD. Yes, but the Senator is talking about the majority leader.

Mr. PROXMIRE. Yes, and let me say that the majority leader is doing a fine job. I admire him greatly. The fact was he got the floor more than he thought he got the floor, because I marked it down. The Senator said, "Who has the floor?" The Senator from West Virginia was recognized at least twice. Then the Senator from New Mexico was recognized and he was recognized twice, too. The Senator from West Virginia was right in invoking the rule.

Mr. ROBERT C. BYRD. I did not invoke it.

Mr. PROXMIRE. Well, the threat was made.

Mr. ROBERT C. BYRD. No, no.

Mr. PROXMIRE. Aw, come on.

Mr. ROBERT C. BYRD. No, I was merely calling attention to the fact that such a rule existed.

Mr. PROXMIRE. All right.

Mr. ROBERT C. BYRD. Let me say to my friend, let us have an end to this discussion. If he will be merciful enough, if he will be compassionate enough to allow me to proceed while he has the floor——

Mr. PROXMIRE. Oh, certainly.

Mr. ROBERT C. BYRD. Yesterday, I spoke more than twice up to the point that the Senator raised the question, but I spoke at the sufferance of Senators who had the floor. So it is not how many times one speaks. If the Senator yields to me and I speak, that does not count as one of the two speeches. It is when the Senator has the floor.

Mr. PROXMIRE. The Senator from Wisconsin was not speaking about the Senator from West Virginia asking other Senators to yield. The Senator made a specific point of addressing the Chair, saying, "Who has the floor?" and the Chair said, "The Senator from West Virginia has the floor." That happened at least twice during the course of that discussion. As I say, I am not going to and I do not think any other Senator is going to invoke the rule on speaking—I do not think they could. I am just calling to the attention of the Senator, however, that usually other Senators do not invoke that. Once in a while, the majority leader refers to it. He does not invoke it, either. But he has, I think, a very gracious and effective way of working his will on other Senators and I just wanted to call attention to that.

Mr. ROBERT C. BYRD. Mr. President. will the Senator yield?

Mr. PROXMIRE. Yes.

Mr. ROBERT C. BYRD. Mr. President. I regret that the Senator took umbrage vesterday at my merely calling attention to that rule. I had no intention of invoking it. I think the Senator would have to say, off the record as well as on the record, that the majority leader is about as fair as any Senator can be to the Members on both sides. I have risen to protect the rights of Members on the other side

of the aisle just as much as I have for Members on this side of the aisle. They may feel they have been shorted, but they have not.

I had no intention of invoking the rule. At that point in time, I did want to say something before the Senator from New Mexico made his point of order. I was not questioning his right to make a point of order, but once that was made, there would be no debate. I did want to say something else and I thought he should have allowed me to do that.

But I have no rancor toward the Senator from New Mexico. I have no rancor toward the Senator from Wisconsin, who quickly leaped very ably to the defense of the poor Senator from New Mexico, who was about to be run over, roughshod and barefoot, by the majority leader, in the mind of the distinguished Senator from Wisconsin. I admire him for his chivalry and for his courtliness in rushing to the defense of Senators, but I want to assure him that I really had no intention of invoking the rule and will be very carful, very careful, about ever attempting to invoke that rule.

Does that settle the matter?

Mr. PROXMIRE. Of course it does. I am sure the Senator from West Virginia would never run roughshod or barefoot over anyone. Any time anybody runs roughshod or barefoot, it is a delight. I love to have the feeling of those bare feet on my body. That is no problem. [Laughter].

Mr. President, the Senator from West Virginia has given an argument that we should move ahead now with authorizing legislation on the grounds that the authorizing committees have already acted. I can see a very strong argument the other way. If the authorizing committees had not acted, if they had not had hearings, if they had not gone through this process, then I think we could make a case that, because of the necessity of acting promptly rather than waiting for all that procedure in the authorizing committees, we should move ahead.

As I pointed out, the argument that I am making is that the Banking Committee has acted. We have held hearings, we have made a report. The bill is pending on the floor. It can be taken up and acted on. It can be settled, probably, within 1 day. Rather than do that and rather than waiting another 2 or 3 or 4 days for the Energy Committee to act so we could have both bills before us and then proceeding with the Interior appropriations bill, the distinguished chairman of the Appropriations Subcommittee, who is also the majority leader, has argued that we must act right away, we must act without considering the authorization process.

As I say, I think it is very important for our procedures here, very important if we are going to have deliberative, careful, thoughtful action, that we know what we are doing, that we act fully on the authorization process, that we consider what our hearings have told us, what our report has told us, that we debate the framework within which we shall have appropriations, which is exactly, of course, what the authorization process does.

The distinguished majority leader said, well, a supplemental will take a while to get through and we would have to wait for that. I think the Senator knows that with the urgency every one of us, all 100 Senators and 435 Members of the House, feels about energy, there is no way the leadership is going to be held up on an energy bill this year or an energy supplemental. We can act on those authorization bills. We can act and work our will, decide what level of authorization to have, not prejudge the case as we are doing with the Byrd amendment which is pending. It seems to me that that is certainly the most prudent way to act.

The Senator from West Virginia, the majority leader, talked about how he had had hearings in the Interior Committee. Well, the hearings we had in the Banking Committee did have the administration witnesses appear. We had one or two other people who had announced publicly their belief in a huge synthetic fuels program, Attorney Cutler and others.

But the other expert witnesses we asked to testify, and we had no idea what their position was going to be, were overwhelmingly against proceeding with a big, massive synthetic fuels program. They said it would be wasteful. They said it would be extravagant. They said it would not pay off. They said it was not necessary. They said the technology was not ready for it.

These were experts in the synthetic fuels area; these were financial experts; these were others who, as I say, overwhelmingly opposed this kind of massive action. They said you just cannot buy an energy program by throwing money at it.

The testimony of the Harvard Business School experts, for instance, stressed that the way to handle this problem is to put far more emphasis on conservation—some on solar, but far more on conservation. But this is the sensible way, the prudent way to go and not just give the country the false notion that, just because we are pouring billions and billions of dollars into synthetic fuels, that is going to solve our problem.

Mr. President, I do hope that before we act on the Byrd amendment, Senators will consider the importance of considering testimony from financial experts, technical experts, and others who have testified before both the Energy Committee and the Senate Banking Committee and not rush into a $20 billion commitment without having our eyes opened.

Mr. President, I yield the floor.

ORDER OF PROCEDURE

Mr. ROBERT C. BYRD. Mr. President, will the Chair recognize one of those Senators and then I would like one of them to yield to me.

The ACTING PRESIDENT pro tempore. The Senator from Wyoming.

Mr. WALLOP. Mr. President, I should be happy to yield to the majority leader.

Mr. ROBERT C. BYRD. Mr. President, I merely want to express a hope that we can find or probably arrive at a time agreement which will allow us to vote on the Byrd amendment at some point during the day so as to give Senators an opportunity to discuss it, and if they have amendments to it, to consider them. But I hope we can vote today on the amendment and possibly, in the meantime, arrive at a time on which to vote so that all Senators will know.

Mr. HART. Will the majority leader yield?

Mr. ROBERT C. BYRD. The Senator from Wyoming has the floor.

Mr. WALLOP. I shall be happy to yield to the distinguished Senator from Colorado.

Mr. HART. If the majority leader would calculate in, as far as the interest of the Senator from Colorado, I should like to speak for 15 minutes and I have no amendment.

Mr. ROBERT C. BYRD. I thank the distinguished Senator.

Very well. The Senator's request will be remembered at such time as an agreement can be arrived at.

I thank the Senator.

UP AMENDMENT NO. 646

(Purpose: To provide sufficient funds for the acquisition of Yellowstone Park Company in Yellowstone National Park)

Mr. WALLOP. Mr. President, I ask unanimous consent that it be in order for me to offer an amendment at this time and set aside the pending business.

The ACTING PRESIDENT pro tempore. Is there objection? Without objection, it is so ordered.

Mr. WALLOP. Mr. President, I send an amendment to the desk and ask that it be stated.

The ACTING PRESIDENT pro tempore. The clerk will state the amendment.

The legislative clerk read as follows:

The Senator from Wyoming (Mr. WALLOP) proposes an unprinted amendment numbered 646.

Mr. WALLOP. I ask unanimous consent that further reading be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

On page 14, line 12, strike out $119,938,000 and insert in lieu thereof $124,838,000.

Mr. WALLOP. Mr. President, let me begin by telling the majority leader that I appreciate his courtesy in allowing me to bring up this matter at this time.

What I seek to do, Mr. President, is provide the National Park Service with an additional $4.9 million so it can buy out the Yellowstone Park Co.'s concessions facilities in the Yellowstone National Park at the price of $19.9 million, which now all parties have agreed to.

The committee is familiar with this issue. Last year Congress authorized such sums as may be necessary for the purchase of the YPC concessions facilities. This came on the heels of an NPS study which found that YPC's services and facilities were unacceptable, and that YPC had not made capital investments on schedule. Congress authorized the Park Service to acquire the YPC holdings, renovate them satisfactorily, and contract short-term operators to run and manage them. This process is now occurring.

The administration's fiscal year 1980 budget requested $15 million to acquire the YPC holdings. The House did not fund this item but deferred a decision pending further information. The Park Service appraisal in 1978 valued the YPC holdings at $16.9 million. This July the Park Service officially updated its appraisal to $19.7 million, which is the projected value as of October 31, 1979, when the YPC contract expires. A YPC appraisal done last June projected the October 31 value of the YPC assets at $25 million. Recently the Park Service and General Host Corp., the parent company of YPC, agreed in writing to a firm figure of $19.9 million for the purchase of the YPC assets. This agreement has been approved by the board of directors of General Host Corp.

The committee has directed that the Park Service can come back with a reprograming request for the difference between the $15 million provided in this bill and the agreed-to price of $19.9. I understand the committee's thinking and ordinarily would agree, but in this case I believe there are a number of benefits to be gained by providing the full $19.9 million in this legislation. In order to reprogram these funds, the Park Service must first seek and receive Department of the Interior approval, then OMB approval, and then approval of this committee and the House Appropriations Committee. This process can be time consuming, and has an uncertain outcome.

The contract with YPC expires on October 31 of this year, and requiring the Park Service to reprogram these funds might force the parties involved to renegotiate the terms of the contract. In addition, a reprograming of this magnitude would have a significant effect on the Service's construction program out of which it must come. This program consists largely of water and sewer, rehabilitation, and high priority historic preservation projects, and much of it is already earmarked for specific purposes.

I am especially concerned that this money might come out of the $5 million the administration requested and this committee and the House have approved for rehabilitation and new construction in Yellowstone Park. This money is urgently needed and should not be lost for these purposes.

If the Park Service is unable to pay the full $19.9 million when the contract expires, YPC may very well go to court. This could be a lengthy process, and will not result in a lower settlement price by virtue of the fact the Park Service's appraisal is almost as high as the agreement price. The NPS appraisal was done after exhaustive review by a solid, MAI appraiser. I am not sure that the committee is completely aware of this new appraisal, but it does make the outcome of any court settlement more predictable.

Furthermore, until full payment is made to YPC, the new concession must pay approximately $1 million annually in rent, and that goes to whoever holds the concessions. Once full payment is made, this rent will go to the Federal Government, into either Yellowstone's budget for rehabilitation purposes or into general revenues.

Prior to that, it goes to the Yellowstone Park Co., which is the company already in default of its service performance. To the extent we do not pay off YPC and General Host on time, the Federal Government is forfeiting these revenues.

Mr. President, Yellowstone is our Nation's oldest national park, and receives over 4 million visitors yearly. It is a major tourism attraction in the Rocky Mountain region, and the quality of its services and facilities affect the tourism economy for our entire region.

More importantly, the judgment of those 4 million people who annually visit the Yellowstone Park is a judgment on this country's ability to run and maintain one of the finest park systems that exist in the world. To the extent YPC's facilities are found to be shabby, disorderly, and the services poorly administered, this country and its Park Service suffers proportionately.

It is important the public perceives that the Government is taking steps to improve Yellowstone's older, worndown facilities since it has pledged to do so. The committee's approval of funds needed to do this will help insure this goal and result in improved service in Yellowstone Park.

Contrary to some thinking, YPC is not especially happy with the price it has agreed to, but it is willing to accept it, sell, and get out. I submit full funding for this purpose will save the Federal Government, YPC, the judicial system, and this Congress further work and greater expense. I would ask the committee to consider and approve this request.

Mr. SIMPSON. Mr. President, I have followed most closely the activities of the Senate Interior Appropriations Subcommittee as it relates to the question of the Yellowstone National Park buyout and am pleased to join my colleague, the distinguished Senator from Wyoming, in this amendment to add $4.9 million to complete the transaction. It has been my pleasure to work diligently, along with Senator WALLOP, on this matter and with John Townsley, the superintendent of Yellowstone National Park.

Mr. President, I am greatly disappointed that the full amount for the buy-out has not been made available by the Senate Interior appropriations measure, but I am fully aware and realize the difficulty that this issue has presented to the committee as it relates to the negotiations for the buy-out which were completed only within recent days by National Park Service personnel. The most recent appraisal report was not available to the committee at the time the bill was reported.

I am also keenly aware of the extreme difficulty in overturning the committee decision in this regard. I have been involved in the process and have been working closely with the National Park Service as to discussions on the reprograming of funds to make up the difference between the $15 million provided for by this bill and the $19.9 million obviously required to finalize the buy-out under the current appraisal figure.

I look forward, Mr. President, to continued activity on this matter and appreciate the fine cooperation that has been extended by the committee, particularly the Senator from Kentucky (Mr. HUDDLESTON), and I am very aware that the matter is still open for what I trust will be a resolution in the very near future.

The pledge of the manager of this Interior appropriation bill to take the matter up in conference committee is deeply appreciated by me, and I think will assist in resolving this very important matter.

I thank the Chair.

Mr. WALLOP. Mr. President, I ask unanimous consent that Senator SIMPSON be added as a cosponsor of the amendment.

The ACTING PRESIDENT pro tempore. Without objection, is is so ordered.

Mr. WALLOP. Mr. President, I am happy to yield.

Mr. HUDDLESTON addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Kentucky is recognized.

Mr. HUDDLESTON. Mr. President, the subcommittee and the full committee of the appropriations were sympathetic to the situation that has been described by the distinguished Senator from Wyoming.

We did add back into the bill $15 million that had not been included by the House. The question of the additional $4.9 million we felt should best be left until we had a request from the Department outlining the need for it, first; and second, until the negotiations had been concluded to the extent that the Department and OMB had a chance to review them and make their submission to us.

It was our feeling, our belief, that the Department could, through reprograming, meet the aditional cost above the $15 million if it should be determined that it was necessary.

We expect that this action will go forward, will be completed successfully, and stand ready to do whatever is necessary as soon as the Department indicates to us precisely what they need.

Mr. WALLOP. Mr. President, I appreciate what the Senator from Kentucky is saying and I understand it. I would ordinarily not have brought up the matter because of the report language that is in there directing reprograming. But I ask him to seriously consider the circumstances as they exist right now, today.

The deal has been cut. The contract is over on October 31. Reprograming can be a considerable process to go through, in that it requires both committees' approval, Department of Interior approval, and OMB's approval.

I have no doubt that the request will be coming. But the plain fact is that there is no reason for a million dollars in annual rentals to be going to the Yellowstone Park Co. when the money could be returning to the people of the United States. There really is no reason

to delay with this small figure when everything has been agreed to.

I appreciate what the Senator has said: that the Park Service should have officially asked for the full funding. I do not even know why they did not. But I believe it is in the national interest to fully fund this item at this time to achieve what has to be a common public goal: to get the Yellowstone Park Co. out. They have not been successful in Yellowstone. We need to get the public in possession of those concession facilities so that we can begin to right past problems and manage these concessions properly.

Mr. HUDDLESTON. The settlement has been negotiated, but it has not been reviewed and approved by the OMB. The reprograming request can be handled within a matter of a few days. It is just a question of their determining what is necessary and sending a letter to the committees.

I assure the Senator that the subcommittee will not delay in any way the request, when it comes to it. They have made arrangements for continuing the operation.

Mr. WALLOP. I understand that they have done that.

The problem primarily, I believe, is the October 31 date, which would not necessarily be satisfied by accepting this amendment.

I reiterate the concerns I expressed earlier, which are that the Park Service might seek to reprogram the additional buyout funds out of the $5 million which is earmarked for rehabilitation and new construction in Yellowstone, and which is extremely important for those purposes.

Mr. HUDDLESTON. We will be prepared to replenish any reprogramed money in a subsequent supplemental. We have taken the approach that we are for the project; we expect that it will occur. We think it can be handled as rapidly, from our standpoint and the standpoint of making the money available, as they can put the deal together.

Mr. WALLOP. I appreciate what the Senator says.

It should be urged in the conference language that this matter be settled as expeditiously as possible. I do not want to see these negotiations reopened. I know the public will pay more if that occurs. I think all due haste is in order; and if the Senator assures me that will be the position he will have in mind when he goes to conference on the bill, I will withdraw the amendment.

Mr. HUDDLESTON. I thank the Senator. I assure him that we will give close attention to this matter and expedite it in every manner possible.

The ACTING PRESIDENT pro tempore. The amendment is withdrawn.

Mr. WALLOP. Mr. President, I ask unanimous consent that the pending business may be set aside and that a request for report language may be in order at this time.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object, what does the Senator wish to proceed with?

Mr. WALLOP. It is a USGS uranium hydrology study, which I think the staff is aware of, and I believe they have agreed to, directing the expenditure of USGS funds on a uranium hydrology study in Wyoming.

Mr. ROBERT C. BYRD. Does the Senator intend to offer an amendment to the bill?

Mr. WALLOP. No. I intend to engage in a colloquy with the chairman and that this be report language.

Mr. ROBERT C. BYRD. I have no objection to that.

Mr. President, will the Senator yield?

Mr. WALLOP. I yield.

Mr. ROBERT C. BYRD. Mr. President, Mr. JAVITS wishes to offer a modification to his amendment on which the Senate voted yesterday, and I think he should be given an opportunity to modify his amendment.

A vote is to occur today, under the order entered yesterday, on my motion to table the motion to reconsider the vote by which the amendment of Mr. JAVITS was rejected. I hope the Senate will allow the Senator from New York to modify his amendment and get a vote on it.

Therefore, I ask unanimous consent to withdraw the yeas and nays on my motion to table, to withdraw the motion to table, that the vote on the adoption of the Javits amendment be reconsidered, and that the amendment be restored to a position allowing him to modify his amendment.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. ARMSTRONG. Mr. President, reserving the right to object—and I will not object—will the majority leader tell us the projected timetable for that? Would that vote then occur at 12:30?

Mr. ROBERT C. BYRD. No. His modified amendment would be open to debate, and it would run the normal course of debate, and a vote thereon—whether it would be a voice vote or a vote by division or a rollcall vote. It would be up to the Senator to decide. At that point, there would be a vote.

Mr. ARMSTRONG. I appreciate the explanation of the majority leader, and I have no objection.

Mr. ROBERT C. BYRD. I thank the Senator.

The PRESIDING OFFICER (Mr. EXON). Is there objection? The Chair hears none, and it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, that means that the Javits amendment to the Byrd amendment is now pending, and Mr. JAVITS will have a right to modify his amendment.

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. Notwithstanding the fact that the yeas and nays may be ordered on it at some point. I hope that the order protects him in his right to modify the amendment.

The PRESIDING OFFICER. At the moment, the yeas and nays are still ordered on the amendment.

Mr. ROBERT C. BYRD. So he is protected.

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. I thank the Chair.

Mr. WALLOP. Mr. President, I would like to engage in a brief colloquy with the subcommittee chairman.

I want to propose that the committee direct USGS, in conference report language, to use $100,000 within its allowance for water resources studies in this bill for a baseline study on uranium hydrology in the Powder River Basin of Wyoming.

There is genuine concern developing in my State over the effects of uranium development, both in situ and surface, on the water resources of the area. There are now 14 uranium mines and 2 mills in production in the Powder River Basin of Wyoming, including one in situ mine. By 1983, up to 30 additional mines and 3 additional mills may be in place, including up to 12 in situ mines. At least four of the planned mines, and one mill, are owned and controlled for the benefit of the Tennessee Valley Authority.

The immediacy of this development makes it essential that we know more about the effects this development will have on the water resources of the area. The Powder River Basin Resource Council, a conservation organization concerned with energy development in the Powder River Basin, has proposed a USGS study of uranium development-groundwater relationships. The State of Wyoming has indicated such a study could produce valuable data, and that environmental and socioeconomic effects of uranium development could exceed those of coal mining in the next several years. USGS is actively engaged water-resources evaluations in the Powder River Basin, primarily in connection with development of coal resources. I ask unanimous consent that a letter from the USGS explaining the USGS studies now going on in the Powder River Basin be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. WALLOP. Mr. President, as this letter indicates, these USGS studies are not specifically addressing the impact of uranium mining on ground water. By virtue of past language accompanying the appropriation, Federal money made available to USGS for energy-related hydrologoy is dedicated largely to water resources aspects of coal and oil shale development. USGS is very aware of the problems relating to uranium development in the Powder River Basin, and has been considering undertaking this kind of a baseline study.

The administration's 1980 USGS budget request for water resources studies was $20,120,000 for Energy Hydrology. This broke down to $12,370,000 for coal hydrology; $5,308,000 for nuclear energy hydrology; $1,100,000 for oil shale hydrology; and $1,342,000 for overhead and other cost-sharing expenses. The committee has reduced the USGS hydrology program by $460,000, and recommended a total of $19,660,000 for energy hydrology. I considered the possibility of asking the committee to restore $100,000 of the $460,000 deleted for

a uranium development-groundwater study in the Powder River Basin. However, I share the committee's concern for restraining the budget, and therefore I am simply requesting that the committee agree to seek conference committee language directing that USGS use $100,000 within the $19,660,000 recommended by the committee for this extremely important study. USGS feels $100,000 would be sufficient for the purpose of such a study and has informed my office unofficially that it can in all likelihood undertake this study without hurting its other hydrology programs, and that it would be happy to do so.

Mr. President, I ask unanimous consent that a letter from Powder River Basin Resource Council explaining its proposal for a groundwater-uranium study, a list of present and proposed uranium developments in the Powder River Basin, and a newspaper article entitled "Ranchers Worried About Uranium Exploration," published in the Rawlins Daily Times, be printed in the RECORD following these remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. WALLOP. Mr. President, while I do not intend to recommend that the Powder River Basin Resource Council study should necessarily be implemented by USGS as proposed, I do bring it to the committee's attention since it points out some of the problems and needs in this regard.

EXHIBIT 1

U.S. DEPARTMENT OF THE INTERIOR,
Reston, Va., July 25, 1978.

In Reply Refer To: EGS–218816 Mail Stop 411

Hon. MALCOLM WALLOP,
U.S. Senate,
Washington, D.C.

DEAR SENATOR WALLOP: Your letter of July 11, 1978, requested that the Geological Survey confer with resource agencies in Wyoming to evaluate data now available, determine what additional data are needed for managing ground-water quality and quantity impacts of uranium exploration and mining in the Powder River Basin, and to recommend the best methods for instituting investigations should they be necessary.

As noted in your letter, the Geological Survey is actively engaged in water-resources evaluations in the Powder River Basin, primarily in connection with development of coal resources. Coal hydrology investigations have been assigned high priority, necessitating diversion of personnel from other programs. An investigation of the hydrology and water potential of the Madison Limestone of the Northern Great Plains region has been underway for several years, and a study of the major aquifer systems of the entire Northern Great Plains region was initiated this year. We maintain liaison with concerned State and Federal agencies and private groups to ensure that they are informed on the nature of the work and progress. These federally-funded studies are broad in nature and will provide many of the water-information needs for large-scale management decisions concerning the water resources. They are not, however, specifically addressing the impact of uranium mining on ground water. By virtue of language accompanying the appropriation, Federal money made available to us for energy-related hydrology is dedicated largely to water-resources aspects of coal and oil-shale development.

In addition to these federally-funded regional projects, for many years the Geological Survey has conducted systematic programs of water-resources investigations in the State of Wyoming in cooperation with the Wyoming State Engineer and certain other State agencies. Priority of scheduling and programs of work are formulated by mutual agreement. These investigations provide important information for management of the State's water resources and are generally helpful in evaluating mining impacts. However, the program of cooperative investigations does not presently include work directed specifically to uranium mining effects.

Mr. Sam West, our District Chief for water resources investigations in Wyoming, is being requested to confer with the Wyoming Department of Environmental Quality, the Wyoming State Engineer, and the Powder River Basin Resources Council for further determination of needs for ground-water investigations directed to uranium exploration and mining activity in the Powder River Basin and to explore means to accomplish needed work.

Sincerely yours,

W. A. RADLINSKI,
Acting Director.

EXHIBIT 2

POWDER RIVER BASIN GROUNDWATER-URANIUM STUDY TOPICS

EXPLORATION

(1) the extent of problems caused by exploration drilling, including lowered groundwater tables, aquifer communication, and loss of artesian pressure

(2) who has been affected by the problems, and to what degree

DEEP AND OPEN PIT MINING

(1) what effect mine de-watering has had locally upon aquifers

(2) what effect de-watering associated with greatly expanded deep and open pit mining activity will have upon aquifers; who will be affected, and to what extent

(3) the probability that shallow aquifers (such as the Fort Union and Wasatch formations) will not recharge with various levels of deep and open pit mining activity if water from de-watering is not artificially re-injected

(4) the technical and economic feasibility of artificial re-injection of water from de-watering operations

(5) the best approaches to artificial re-injection

SOLUTION MINING

(1) how solution mining in the Powder River Basin would affect groundwater if various restoration standards were to be applied

(2) with various geologic and hydrologic site conditions characteristic of the Basin, how well ammonium bicarbonate, ammonium carbonate, sodium compounds, and sulfuric acid can be recovered without decomposing in groundwater into potentially harmful by-products

(3) the potential for trace element mobilization with the different chemical solutions under various geologic and hydrologic site conditions

(4) what long and short-term effects leach solution decomposition and trace element mobilization could have under various conditions

(5) what potential exists for the contamination of surface water supplies via solution mine excursions in those areas adjacent to water courses

(6) what safeguards for protecting groundwater should or can be employed in solution mine operations

TAILINGS PONDS

(1) how tailings ponds have performed in the Basin

(2) what effects (if any) seepage from tailings ponds has had upon levels of radiation in immediate groundwater supplies

CUMULATIVE, LONG-TERM IMPACTS

what long-term cumulative impacts upon groundwater can be expected with various levels of exploration and mining under various levels of exploration and mining under various groundwater protection and restoration strategies

The information needs outlined above reflect problems which have already been observed in the Basin, as well as serious potential problems which may arise if rational uranium-groundwater policies are not followed. Conscientious policies, of course, are more probable when an adequate information base exists. Toward this end, we respectfully request that you consider the merits of the above outline.

PRESENT AND PROPOSED URANIUM DEVELOPMENT IN THE POWDER RIVER BASIN

1. *Kerr-McGee Nuclear Corporation:* Two open pit and one underground mine are now producing 255,000 tons of ore per year. Two additional open pits and eight underground mines are planned (South Powder River Basin Uranium Facility). A mill is also planned.

Kerr-McGee is also involved in a joint venture with Conoco on the proposed Moore Ranch Mine, which is scheduled to produce 342,000 tons of ore per year by 1983 (open pit). There may also be a 1,000 tons per day mill associated with this mine, to be located in Campbell County near the Converse County line.

Kerr-McGee holds a number of old Tennessee Valley Authority leases, along with other leases, in Crook County. Exploration is now taking place in that area.

2. *United Nuclear Corporation:* One underground mine has already been built as part of the Morton Ranch project, producing 660,000 tons of ore per year by 1981. Additional underground mines are planned, plus an extensive series of open pits. A 2,000 tons per day mill is scheduled for construction in 1980. (The Morton Ranch project is owned by the Tennessee Valley Authority and operated by UNC.)

3. *Exxon Minerals Corporation:* One open pit mine has been constructed, producing 1,152,000 tons of ore per year. Two in-situ projects are now planned for the same general area. Exxon is operating the second largest mill in the nation, processing 3,200 tons per day, at the Highland site.

4. *Rocky Mountain Energy:* RME's Bear Creek Mine now consists of eight open pits producing 350,000 tons per year by 1980. The Bear Creek mill is scheduled to expand to 2,000 tons per day. An in-situ mining operation is planned for Nine Mile Lake, nine miles north of Casper, to produce 250,000 pound of yellowcake per year by 1981.

RME is also planning a 250,000 pounds per year in-situ operation on the Reno Ranch site in the Pumpkin Buttes (1981).

5. *Pioneer Nuclear Corporation:* Currently constructing one open pit mine in the southern Powder River Basin.

6. *Wold Nuclear Corporation:* Wold is planning an in-situ mine in the southern Powder River Basin, to be operating in 1983.

Wold is also in a joint venture with Western Nuclear (Christiansen Ranch) for another in-situ operation, to produce 250,000 pounds per year of yellowcake by 1983 in the Pumpkin Buttes.

7. *Cleveland Cliffs Iron Company:* Through several individual and joint ventures, 10–15 underground, open pit, and in-situ operations are planned for the Pumpkin Buttes. An application for an underground operation in the Buttes was recently returned by DEQ as deficient. A 3,500 tons per day mill is scheduled to begin production in 1983.

8. *Cotter Corporation:* Cotter now has an experimental milling process site. An open pit mine to produce 1,000 pounds per year of

yellowcake is planned in the Pumpkin Buttes.

9. *U.S. Energy Corporation:* U.S. Energy is operating in the Kaycee area. Several open pit and underground mines are planned, to produce 125,000 pounds per year of yellowcake by 1980 or 1981.

10. *Wyoming Minerals Corporation:* An in-situ uranium operation in Johnson County is scheduled to produce 220,000 pounds per year of yellowcake this year, escalating to 500,000 pounds per year by 1981. Production in some wellfields was recently curtailed because of excursions.

11. *American Nuclear Corporation:* A 1,500 tons per day mill is scheduled to begin operation in 1982 in the Pumpkin Buttes. Several open pit and underground mines are planned.

NERCO, Homestake Mining, and the Tennessee Valley Authority all have extensive leaseholdings in the Black Hills region, which may be developed within the next few years.

[From the Rawlins (Wyo.) Daily Times, July 24, 1979]

RANCHERS WORRIED ABOUT URANIUM EXPLORATION

DOUGLAS, WYO.—The high, dry plains of central Wyoming are becoming drier, and ranchers are blaming uranium exploration companies.

The ranchers say uranium exploration holes are puncturing underground water formations, turning the aquifers into colanders and wells into dry cavities.

"I think the whole southern Powder River Basin is in trouble," says LeRoy Van Buggenum, "because they've drilled thousands and thousands of holes."

Van Buggenum's family has been raising cattle and sheep in the Pumpkin Buttes area north of Douglas for more than 60 years. He says water levels on his land are sinking.

Walter Reynolds, a neighbor of Van Buggenum, says the water level in a well drilled on his ranch in 1927 began dropping three years ago, after uranium holes had been drilled nearby.

The water "started dropping off and it stopped flowing about a year and a half ago," Reynolds says.

Other ranchers report similar problems, but they have difficulty proving uranium holes are the cause.

"It's hard to pinpoint," says Durwood Robertson, who drills water wells for ranchers. "You know something is causing the water levels to drop throughout the Powder River Basin."

Robertson blames uranium exploration. "It's causing a decline in water levels," he says. "I think that's pretty obvious."

Van Buggenum says he has had water problems for the past 10 years of uranium exploration on his land. In return for letting the uranium companies on his ranch, he says, he was paid $35 for each hole drilled and promised 5 percent of the value of any uranium mined on his land. But the money wasn't worth the water loss.

"I told them I didn't give a damn," he says. "Why take a chance on losing my water for 5 percent ore that you don't know is there?"

"Finally," Van Buggenum says, "I just put the whoa on them."

Other ranchers have been quiet about the problem for fear of disrupting their lucrative financial arrangements with the companies.

"We're in a position where we have to maintain negotiations with these companies," says one rancher, who says he has had water problems. He asked not to be identified.

"Over the past 10 years, probably, we are beginning to see changes not only in the levels of water tables but in the quality of water being taken out of flowing wells," he says.

"Some artesian wells are either diminishing in flow," the rancher says, "or they entirely cease to flow."

"Springs that have existed for years have dried up," he says. "Some of this has occurred pretty close to some of the exploratory uranium drilling. The numerous exploratory holes that are being drilled are, in most cases, not being plugged according to the state statutes."

Wyoming law requires all uranium exploratory holes coming in contact with groundwater to be filled from top to bottom with drilling mud, a bentonite jelly. Holes puncturing aquifers that feed artesian wells must be cemented near the top. The others must be plugged near the top in other ways. The tops must be filled with dirt.

"It is almost a voluntary law," says Gary Beach of the state Environmental Quality Department. "It's a real headache to enforce."

Uranium exploration holes drilled in Wyoming last year, put end to end, would stretch more than 3,000 miles. This year's drilling is expected to total 4,000 miles or more. Most holes are less than 300 feet deep, but they can reach depths of 2,000 feet, officials say.

The environmental agency was given $5,000 by the Legislature to monitor uranium exploratory drilling this year.

When an aquifer is left with a gaping hole, the water may be pressured to the surface, drained to a deeper, dry formation or become polluted from the surface, says Walter Ackerman, head of the state environmental agency's Land Quality Division. Or, he says, the hole may "allow salty or radium-bearing water to escape upward or downward and mingle with water from a higher or lower aquifer."

"These extensive drilling activities have punctured or breached shallow water aquifers in some areas of the state like a sieve," Ackerman contends in a recent letter to a state senator who questioned the seriousness of the problem.

The U.S. Geological Survey in Cheyenne wanted to conduct a $30,000 study this year to assess the problem, but the money request was denied within the agency, says James Marie of the Cheyenne office.

The Geological Survey still plans to try assessing the problem, but Marie says the effort will be only "a quick reconnaissance, because operating on a shoestring, that's all it can be."

Company officials maintain they are filling and plugging all holes.

"This is a standard practice of ours," says Dave Beling of Wold Nuclear Co. of Casper, "and we're doing it on every hole. There's no chance that we've been missing a hole."

Wold Nuclear operates independently, while 90 percent of the uranium exploring in Wyoming is contracted out by major corporations, Beling says. He says contractors aren't likely to fill or plug the holes unless the contract calls for it.

"If you don't tell them to plug the hole," he says, "chances are they won't do it."

Jim Wambeke of Teton Exploration Co. says his company always fills and plugs the holes according to state law. But he says the requirement generally isn't included in its contracts.

Mr. HUDDLESTON. Mr. President, the committee has no objection to the approach that has been suggested by the distinguished Senator from Wyoming.

This was not brought to our attention during the deliberations on the pending bill. We had no opportunity to give it consideration at that time.

We will be very pleased to utilize this colloquy in our conference in attempting to bring about the desired results that the Senator has indicated for us.

Mr. WALLOP. Mr. President, I thank the distinguished chairman, and I wish to say I would have brought it to the committee's attention had I realized that the nuclear hydrology funding does not cover uranium mining, but was related to the disposal of nuclear wastes and the effect on water tables. In my ignorance of the total affairs of things I figured that some of these funds would be available for hydrology studies relating to the production of uranium, or I would have brought it to the committee's attention earlier.

I very much thank the chairman for these assurances, and I yield the floor.

Mr. LEVIN and Mr. HART addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Michigan.

UP AMENDMENT NO. 647

Mr. LEVIN. Mr. President, I sent an amendment to the desk, which is an amendment to the pending amendment No. 520, and ask for its immediate consideration. I understand that it has been cleared with the floor manager.

The PRESIDING OFFICER. There is an amendment pending to the Byrd amendment. That is the amendment of the Senator from New York. It will take unanimous consent to set that amendment aside for consideration of this amendment.

Mr. LEVIN. Mr. President, I ask unanimous consent that that amendment be temporarily set aside.

The PRESIDING OFFICER. Is there objection?

Mr. WEICKER. Mr. President, reserving the right to object, and I shall not object, I wish it to be cleared on this side.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. WEICKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Michigan.

Mr. LEVIN. Mr. President, I ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Michigan (Mr. LEVIN) proposes an unprinted amendment numbered 647 to amendment 520: On page 4, after line 3, insert the following:

Nothing herein is intended to preempt, preclude or prejudge the Senate's consideration of appropriation, authorization or revenue bills which may be reported by Senate committees relative to expenditures on synthetic fuels, solar (including renewables) and conservation, in this or subsequent fiscal years, nor is anything herein intended to establish or set a binding pattern as to the proportion of appropriations for synthetic fuels, solar (including renewables) and conservation.

Mr. LEVIN. Mr. President, there has been a great deal of debate as to the significance of the pending amendment. This amendment is intended to clarify that. It speaks for itself. I do not think anything I could say could set forth more clearly what it intends to say. I understand it has been accepted by both sides.

Mr. HUDDLESTON. Mr. President, the amendment by the distinguished Senator from Michigan has been studied by this side of the aisle. We have no objection to it. It just makes clear that the action that has been taken, the acceptance of the Tsongas amendment of yesterday, does not in any way establish a pattern which will have to be followed as relates to the expenditure of funds for the alternative fuels projects from the energy security reserve.

I do not see the distinguished Senator from Alaska now, but he has also reviewed this amendment and I believe has no objection.

Mr. STEVENS. Mr. President, that is correct. I have reviewed it. I think it states the conditions under which the moneys are appropriated in this bill, and I have no objection to it.

Mr. LEVIN. I thank the Senator from Kentucky.

I also thank my friend from Colorado for yielding to me.

Mr. ARMSTRONG. Mr. President, I wish to be heard on the pending amendment.

The PRESIDING OFFICER. The Chair recognizes the Senator from Colorado.

Mr. LEVIN. Mr. President, if the Senator from Colorado will yield, is he referring to my pending amendment?

Mr. ARMSTRONG. Indeed I am.

Mr. LEVIN. I thank the Senator.

Mr. ARMSTRONG. Mr. President, I think this is really an ingenious amendment, one which I am certainly going to support, but I will do so clearly with the understanding that we are engaging in an eloquent bit of subterfuge because what the amendment of the Senator from Michigan says is that we are not making any prejudgments when, in fact, that is exactly what we are doing under the terms of the underlying pending Byrd amendment.

Now, of course, how we describe our action really is irrelevant to its effect. We are making a prejudgment. We are writing an energy program here in the Chamber today, and that is exactly the process to which I objected yesterday and to which I still object.

I think it is fine for Senators to say that we are not making prejudgments, but, in fact, that is precisely what we are doing. We are engaging in the kinds of activity, it seems to me, which is almost impossible for the energy industry to understand, which is almost impossible for consumers of energy to understand, which will be incomprehensible to the business community and the investment community and which leads our constituents at home to think that we have lost our senses.

As one who has long favored the development of synthetic fuel and as one who has for many years pressed for the adoption of measures which are calculated to increase the supply of synthetic fuels, I am not sure whether or not to be pleased or appalled by the recent flurry of interest in synthetic fuels by the White House and by the Senate.

On the one hand, I think it is fine, and I think it is commendable that there is a growing recognition of the need to develop energy sources, particularly oil shale and tar sands and similar possibilities. It is long overdue.

But this kind of process, when coupled with the wildly optimistic projections of how much synthetic fuel can be produced, how soon, at what cost, and the implication that in some way synthetic fuel is a panacea, gives me great concern.

I also regret the fact that so many of the Members of the Senate seem to be jumping to the conclusion that, since synthetic fuel is desirable, it follows logically that we need a massive growth of Government intervention in the private energy production and consumption economy.

I think that conclusion is not by any means justified by testimony before the committees of Congress. It is erroneous, and it flies in the face of what seems to me to be the clearly stated facts.

Mr. President, the amendment presented by the Senator from Michigan brings into clear focus what is really wrong with the Byrd amendment, in my judgment. We have had a lot of testimony, as the Senator from Wiscosnin has pointed out, before the Banking Committee. We have had testimony before the Senate Energy Committee. We have had, in fact, testimony in recent months before no less than 50 committees of the House of Representatives and the Senate which have asserted jurisdiction over some aspect of energy legisiation.

We have had a number of consultants who have come forward to comment on the energy needs of the Nation, and I wish to share with Senators some of the conclusions which they have reached.

For example, the Pace consultants made this observation:

> Although there are many contributing factors, including the obvious one, that an increase in oil prices ricochet throughout the economy and drives up prices in general the most important single influence—

Referring now to the price at which oil might be produced from synthetic sources—

> the most important single influence seems to be a steadily increasing knowledge of costs as a result of more detailed engineering design.

CRS in commenting on the issue of at what price we might produce oil from shale or other synthetic sources made this observation:

> Cost estimates also tend to vary according to the process selected. Of greater importance, however, is the uncertainty engendered by the inexperience of designers, contractors, and others. In short, no U.S. commercial plants have yet been built, so no one actually knows what the costs will be. It can be postulated, however, that the actual costs may be as high as twice the estimates.

In other words, Mr. President, consultants who have looked at the issue of synthetic fuel production say, "We don't really know what we are doing."

During the month of August I contacted a number of the companies in the energy industry whom we would expect ordinarily would be the prime movers in the development of synthetic fuel, and I simply said this to them:

> The President has sent to Congress a proposal for an $88 billion Energy Security Corporation, an idea that sounds to me like a very important one, but I want your opinion.
>
> So I asked these energy companies:
>
> What would it take to get you into the business of producing oil from synthetic sources, from shale, tar sands, coal, and whatever it might be?

The answers that came back, I think, are most enlightening. Basically, there were six broad classifications of answers that came back from the two dozen or so energy companies which I contacted.

First, they called for decontrol of oil and natural gas prices. Yes, decontrol of the price of fuel produced from conventional sources will, in the opinion of these industry experts, have everything to do with stimulating production of oil from synthetic sources.

Second, they called for a reduction in the regulatory burden.

Third, they called for a production tax credit, such as a $3 a barrel tax credit for oil produced from synthetic sources or similar sources.

Fourth, they called for the existing tax credit.

Fifth, they called for accelerated plant depreciation.

And, sixth, some of them called for a guaranteed purchase plan or other form of assistance, such as loan guarantees in the development stage.

Well, now, Mr. President, the legislation which we have before us in the Byrd amendment makes decisions about the size and shape of the program by which Congress intends to encourage synthetic energy production; notwithstanding the amendment of the Senator from Michigan, we are making decisions, we are literally writing an energy program here right on the floor, and I think it is obvious to many Senators, and certainly it was obvious last night to the Senator from Massachusetts (Mr. TSONGAS) when he offered his amendment, and it was obvious to the Senator from New York when he offered his amendment, that the bandwagon is leaving, and anybody who wants to get on the wagon had better do it now because he is likely to be preempted.

So while I intend to support the Senator's amendment, I think I should point out to him, and I am sure he appreciates it, that once this Byrd amendment is adopted, if indeed it is adopted, the boat will have sailed, and there will be a very, very strong presumption in favor of those measures which are consistent with this language, and a very strong presumption against those measures which are not.

Which brings me to my objection to the amendment, that is, to the Byrd amendment not the Levin amendment. My objection is simply that we are acting without really knowing what we are doing. It is contrary to the normal order, despite what has been said last night and this morning, for us to appropriate prior to the adoption of the authorizing legislation.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. ARMSTRONG. Of course, I will be pleased to yield.

Mr. ROBERT C. BYRD. Is the Senator aware of the fact that the Department of Energy has for 2 years or 3 years, I suppose, had money appropriated for it without authorization? Is the Senator aware of that?

Mr. ARMSTRONG. I will have to say to the majority leader I am not aware of that. Is the majority leader suggesting that that is a desirable process, whether it is the regular order for conducting business before the Congress?

Mr. ROBERT C. BYRD. I am simply saying the Senator's statement with respect to my amendment to the effect that, in essence, we always authorize before we appropriate, does not quite hold up.

Mr. ARMSTRONG. Mr. President, I will say to the majority leader that the Senator from Colorado has made no such statement. I have said to appropriate in advance of authorization is contrary to the regular order.

I am not saying it is unprecedented, I am not saying we have never done so before. I am saying in my judgment, in the judgment of this Senator, it is a poor process and an unwise process. We do not know as we are asked—

Mr. ROBERT C. BYRD. I misunderstood the Senator.

Mr. ARMSTRONG. I am glad to clarify that.

Mr. WEICKER. Mr. President, will the Senator yield?

Mr. ARMSTRONG. Of course.

Mr. WEICKER. Is the Senator from West Virginia indicating that the Department of Energy is operating without any authorization at this time?

Mr. ROBERT C. BYRD. They have a limited authorization under the National Energy Act for some of the grant programs.

Mr. WEICKER. But otherwise without authorization?

Mr. ROBERT C. BYRD. Otherwise the Congress has been appropriating money without authorization.

Mr. WEICKER. Well, I suggest that considering the results of the Department of Energy over the past couple of years, this might be a very good reason why they should not be funded at all.

Mr. ROBERT C. BYRD. The Senator has his own opinion on that. He certainly has a right to that, but he himself has been maintaining that, as I understand it, we cannot appropriate without authorizing first, and I simply want to call his attention and call to the attention of others that the Department of Energy has been receiving appropriations without authorization for 2 or 3 years.

Mr. ARMSTRONG. I am sure that my colleagues appreciate, as I do, the discussion of the appropriation and authorizing process, and I think I will stand by my earlier observation that this is contrary to the regular order, and that it is contrary to the best order and to the best traditions of the Senate.

Mr. President, in summary, my objections to the approach represented by the amendment offered by the majority leader are that, first of all, the proposed solutions in the amendment are not responsive to the testimony and the need which have been discovered by the committees that have been looking into this.

The proposal to create a $88 billion Energy Security Corporation, of which the $20 billion in this bill is the down payment, is the first installment I believe it was characterized as yesterday, is simply not consistent with anything that anybody who is expected to produce oil from shale or tar sands or other synthetic sources has suggested.

A moment ago I shared with my colleagues some of the recommendations that have come forward from industry. You know, it is an interesting thing that I do not recall a single one of these companies—and I am talking now about companies that have been out in the field, that have been making tests, that have invested millions and scores of millions of dollars to bring synthetic fuel to market—not a single one of them that said, "We are ready to go ahead and produce oil from shale or oil from tar sands, but we cannot do it unless the Government forms an Energy Security Corporation."

I do not believe there was one of them that said that. I do not think there was one of them that said we have got to have an energy security reserve fund in the Department of the Treasury. No, they did not say that. What they did say is this: "Let us cut the redtape." They did say "let us have a $3 a barrel tax credit." They did say "let us save a fast track for permitting." They did say "let us have some commitment by Congress that we are not going to continue the scheme of price controls and allocations that has hamstrung the energy economy."

I think we ought to have an energy bill that takes into account and responds to the real needs of the economy, and that will produce energy, and I do not, frankly, think that the creation of this Energy Security Corporation will have that effect.

But to return to the institutional objections to this approach, it comes down to a very simple question: Should we be appropriating $20 billion before we have made the decision, and if we make the decision for $20 billion are we not preempting our later discussions? I think clearly we are.

We are legislating on an appropriation bill. Yesterday we engaged in a parliamentary exercise, and under the precedents of the Senate the point of order which I offered, and which the Senator from New Mexico also offered, was overruled by the Chair. I, of course, accept that. But I do think, recognizing that the basis for the precedents is fictitious, and that the action of the Senate is a legalism and that, in fact, we are nonetheless creating a brand new program on an appropriation bill, that in the truest sense of the word we are legislating on an appropriation bill, and we are making a prejudgment.

We are also being asked to appropriate $20 billion.

Mr. ROBERT C. BYRD. Mr. President, will the distinguished Senator yield?

Mr. ARMSTRONG. Yes.

Mr. ROBERT C. BYRD. Nobody questions the point the Senator has made, to wit, that we are legislating on an appropriation bill. There is no question about that. But the House legislated on the appropriation bill; opened the door for the Senate; and so, the Byrd amendment is simply an amendment to the legislation that the House put in the bill.

The Byrd amendment is germane to that legislation on the appropriation bill. So it is legislation on an appropriation bill. But the question yesterday resolved itself—the question yesterday was whether the Byrd amendment was germane to the legislation passed by the House.

I agree with the Senator; it is legislation on an appropriation bill.

Mr. ARMSTRONG. Well, Mr. President, as a recognized authority on the Senate rules, the majority leader, of course, has stated accurately the parliamentary situation.

However, the mere fact that it qualifies in a parliamentary sense by a strict application of the rule under which the Senate may declare something to be germane really does not, in my judgment, alleviate the fact that it is a bad practice, or that we are creating from scratch a new program on an appropriation bill, and again, in my judgment, contrary to the regular order.

Mr. President, let me sum up quickly; I do not want to prolong this discussion.

I want to point out that in being asked to appropriate $20 billion, we are putting up money for a program which we really do not have all the details of. I call the attention of the Senate to the committee report, on page 71:

> The Committee recognizes that Congress is still working on the development of a complete legislative authorization for this costly new program. Details have yet to be worked out on the funding sources and mechanisms and the organizational changes that might be established. However, there is little doubt that a congressional commitment exists, and the Committee believes it is essential that significant funding be made available now under limited authority so that preliminary work can begin immediately.

Some of the things that we do not know about how this $20 billion will be spent are the following:

First, how it will be used. Will it be used for the GOCO approach, the Government-owned, company-operated method of development, or will the so-called GOGO approach, Government-owned, Government-operated be followed? We do not know that. We do not know whether it will be used for loan programs, for guaranteed purchases of products, or perhaps for various kinds of studies.

Second, we do not know what it will cost. Yesterday we were told this $20 billion is not an expenditure but an investment; but we do not know how it is to come back or be repaid to the Treasury, whether by return on some kind of speculation, or pursuant to regulation within the Department. Someone made the observation, in support of the $20 billion and not in opposition to it, which I found astonishing and appalling, that we do not know whether it is enough, or

whether the actual expenditure will be more or less.

Third, we do not know what agency will administer the funds.

Fourth, we do not know whether the projects which may be funded by this appropriation will comply with the provisions of the Nonnuclear Energy Research and Development Act of 1974, and the reason we do not know that is because this amendment specifically precludes the congressional review specified by section 19 and section 7(c) of that act. As Senators know, there is built into the Nonnuclear Energy Research and Development Act a series of check points and reports to Congress, and then an opportunity for Congress to review the projects under that act. However, that is preempted by the adoption of the Byrd amendment, and I am not clear on why that is.

Fifth, we are not told, and we do not know, whether or not the expenditure of these funds will leave room for the tax measures which many feel are the essence of the incentives needed to get production started in this country.

And last but not least, we do not know whether any of the funds that will be expended under this program will be repaid.

Mr. President, we are told this either is or is not an exercise in symbolism. Some of those who have spoken in support of this extraordinary approach to appropriation have said, "Yes, this is symbol; we are sending a signal." Others have said, "No, that is not right, it really is not a symbol; we are taking action. It is a commitment."

Mr. President, I think this is most unwise, at a time when our budget process is in a shambles; the Budget Committee has been unable to meet its deadlines for the fiscal 1980 budget, and yesterday on the Senate floor the chairman of the Budget Committee told us that the budget process itself is in danger, and may break down.

The appropriations process clearly is in a state of breakdown, because here we are, 2 weeks into the fiscal year, and most of the appropriations bills have not been acted on. The fiasco surrounding the continuing appropriation a few nights ago, I think all Members will agree, whether they were for or against abortion or for or against the pay raise, certainly the manner in which that continuing resolution was handled reflects little credit upon the Senate. In fact, my own opinion is that it was handled in a truly disgraceful manner.

With the budget process in disrepair, with the appropriations process breaking down and perhaps falling apart, with Senators making fools of ourselves on the continuing resolution, does it really make sense to further compound this approach by appropriating $20 billion for a program that has not yet been authorized? I think it only serves to make the situation worse rather than better.

The final objection I want to make has really nothing to do with energy, but has everything to do with what most people in this country think is our most significant problem, and that is inflation. We all know the Nation's families and taxpayers and working men and women and business firms have been racked by the worst inflation since World War II—an inflation which has not only driven up prices, but which is creating in many areas of the country serious unemployment as well, an inflation which has been caused by the budgetary excesses of the Congress of the United States, by the annual deficits which we have enacted and which have resulted in higher prices leading to the inflation.

So most of us feel it is a time for restraint in Federal spending, that this is not a time for just ordinary prudence, but for the utmost prudence. This is a time for us to scrutinize every expenditure carefully, and know exactly what we are getting for the money we are being asked to spend, and, as we make appropriations, to ask ourselves, Is this really so important that we want to add to the inflationary budget deficit in order to make this expenditure?

We ought to ask that question about every item. I have watched my friends around this Chamber who have pet programs that they have invested years of their hearts and concern in, vote to hold the line, to reduce not to increase expenditures, and to provide restraint in deference to that critical overriding need to hold the line on Federal spending. But here, in one stroke, we are being asked to approve a $20 billion pig in a poke, to put up $20 billion for something that has not even been authorized yet.

Mr. President, I think this is a very poor policy. It is a policy which leads us into a quagmire. We do not really know what we are buying. I think we see the broad outlines of the program, a program which may well preempt other more desirable solutions. I hope that on reflection, my colleagues will agree with me that this is a most unwise amendment, and that it will be defeated.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Michigan.

The amendment (UP No. 647) was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. LEVIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question recurs on agreeing to the amendment of the Senator from New York. The Chair recognizes the Senator from Colorado.

Mr. HART. Mr. President, I intend to oppose the amendment offered by the majority leader to appropriate $20 billion for synthetic fuels. Before the vote I wish to explain my position to my colleagues and my constituents.

I do not believe that the real question before the Senate is the question of appropriations. I think the real issue is the concept of the Energy Security Corporation itself, the concept of the bureaucratic approach the administration has suggested to Congress to help solve part of our energy problem.

In acting on this appropriation bill, on the Energy Security Corporation, on the Mobilization Board, and on the other elements of this new energy package, Congress is responding to a demand for action on energy. There is no question that the American people are watching the Congress on these issues.

Mr. President, I think all of us understand that all action is not wise action. The Energy Committee, which is marking up legislation on the issue of the future structure of the synthetic fuels industry and the Government role in that industry, should be commended. It is very difficult to get a consensus today on what steps should be taken on energy policy.

Mr. President, we do not vote here merely to reward hard work. We vote to decide between what is right and wrong, what is effective and ineffective, between what is sound and unsound, between what is good precedent and what is bad precedent. I think that is the issue before the Senate.

Mr. President, I think the issue is whether the U.S. Senate should ever completely deliver its deliberative judgment over to the President or any single committee acting for the President. We are being faced with this issue because there is an emergency. It is argued that we should take extraordinary governmental measures to respond.

I think Congress should take strong action. The issue still remains whether the action being recommended to Congress is right or wrong.

Without question there is a national security issue involved here, causing a need for strong measures. The Senator from Washington (Mr. JACKSON) yesterday spoke eloquently about the dangers, not only to our economy, but also to the long-range security of this country, from our increasing reliance on imported oil.

All of us agree that we have to act, we have to respond, we have to take emergency and quick measures. But, Mr. President, the size of the commitment cannot and should not be gaged merely in dollar terms, or in the dramatic nature of the agency which we seek to establish to spend those dollars. The question is not what is most dramatic, but what is most effective.

Mr. President, we are being offered an appropriation of $20 billion for synthetic fuels. As has been pointed out by my colleague from Colorado and many other Senators, this would be an appropriation for a program yet to be established by the Congress. I believe we should establish the program over the next few weeks, and then vote on the appropriations to fund what the Congress decides to do.

I believe the $20 billion proposed appropriation is too large, even if we agree procedurally to put the cart before the horse. Let me outline the type of synthetic fuels program which I think will be most effective. This program will not need $20 billion in 1980.

Mr. President, we should establish within the Department of Energy a new office to administer the new synthetic fuels program. It might be called the

Office of Energy Security or the Energy Security Administration. This new office could be composed of the same sort of effective new managers as envisaged for the Energy Security Corporation. However, instead of establishing a separate entity, such as the Energy Security Corporation the new office would answer directly to the Secretary of Energy. I think we should act within the Department of Energy which the Congress has only established within the last 2 or 3 years. Let us improve the effectiveness of this Department, rather than leaving it as is, and adding another Federal agency.

We should give this new office authority to negotiate price guarantees; and to establish purchase contracts in conjunction with the Department of Defense under the Defense Production Act; and to provide loan guarantees for small and intermediate size producers, especially to produce gasohol. There should be no federally owned synthetic fuel plants.

In addition, there should be tax credits for the production of synthetic fuels. The $3 per barrel tax credit such as I have proposed for oil shale and as the Finance Committee has adopted for all synthetic fuels, should be available to companies as an alternative to price or purchase guarantees. Some companies will prefer the independence of tax credits, especially if their processes are closely competitive with the priced imported oil.

The annual budget for such an office in the Department of Energy would be sized according to the price or purchase guarantees for which this office could actually contract in each year. Large expenditures such as price guarantees for commercially sized synthetic fuels plants would be approved in annual authorization and appropriation steps under traditional congressional practices. Congress would approve major price guarantees on a project-by-project basis. Congress would approve funding for price for the life of a project in the year when it approves the contract.

Loan guarantees would be limited to some modest amount, such as $25,000,000 per project.

Mr. President, such an approach is an effective alternative to the program to be offered shortly by the Energy Committee. The costs of this alternative have been estimated by a careful analysis and calculations done by my office:

First of all, in 1980 we could have authority for $3 billion for price guarantees for one 50,000-barrel-per-day synthetic fuel plant, plus an additional $1 billion for loan guarantees to small and intermediate-sized producers. Also, in 1980 we could expect 1 company to commit funds for a 50,000-barrel-per-day plant based on the $3 per barrel tax credit.

In 1981 the program could amount to another $3 billion in price guarantees for another 50,000-barrel-per-day synthetic fuel plant. We could also expect two 50,000 barrel-per-day plants to be initiated as a result of the $3 per barrel tax credit.

In 1982, roughly $10 billion for price guarantees would be appropriated for four additional synthetic fuel plants.

In total, from this program there would be nine pioneer commercial plants in operation in the mid to late 1980's. Congress would decide on whether to provide incentives for duplications of these first-generation plants after the pioneer plants prove their cost effectiveness and their environmental suitability. If some of the processes work as well as expected, this country would have 1.5 million barrels of synthetic fuel produced in the early 1990's.

Mr. President, the total cost of the development of a synthetic fuels industry is much less if we pick among the best demonstrations in the mid 1980's. This is the way that most consultants to the Senate Budget Committee proposed. This program would not build duplicate plants of untested processes, as proposed by the President in his original energy message. Most of the experts agree we can achieve the results desired by the creation of a new synthetic fuels energy in this country with substantially less Federal dollars than the $88 billion proposed by the administration. The program I am recommending would require $17 billion in appropriations over a 3-year period. The actual outlays would occur over 15 to 20 years.

So it is not just a question of buying the proposal of the Energy Committee together with that of the Appropriations Committee. There are alternative approaches which are less complicated and which involve less bad precedent.

Every law student in this country learns as a first lesson upon entering law school that hard cases make bad law. There is no question, Mr. President, that we have hard cases here. We are going to have to pay more for our energy. We are going to have to use less. We are certainly going to have to import less.

We are going to have to create, a self-sufficient synthetic fuels industry. We need alternative renewable energy supplies. We need dramatic changes in conservation. We need to convert to coal in industrial boilers and powerplants. We need much greater efficiency in transportation, even higher performance standards for automobile engines than those already enacted by the Congress. We need cogeneration in industry and waste heat utilization in power generation.

We need to do a lot of things of which the synthetic fuels industry is only a part.

But the real question, Mr. President, in achieving all these things, particularly the synthetic fuels industry, is whether because of the hard case we are going to make bad law. The Senator from Colorado feels very strongly the establishment of the Energy Mobilization Board, the proposal for the Energy Corporation, the proposal for a separate trust fund in the Treasury to finance this synthetic fuels energy, all border on the extraconstitutional and will create very bad precedents for the structure and organization of our Government.

It might be worth the risk, Mr. President, to test and strain the bonds of the Constitution where the several branches of Government are concerned if in fact there were no other alternatives.

Mr. President, there are alternatives. We do not need to do it this way. Justification for extraordinary measures is determined by the nature of the threat and seriousness of that threat to this country weighed against the alternatives that are available. The program put forward by the administration, which is being followed by the Energy Committee and by the Appropriations Committee, is not the only alternative.

The synethic fuels industry is only one of several steps that must be taken. The American people are beginning to understand that the energy produced by such an industry will not be available in large amounts for almost a decade. We have to begin in 1979 in order to produce large amounts in the 1990's. But we do not necessarily have to begin in the ways that we are being offered in this body.

I think the decision on the Energy Mobilization Board was wrong. It may even be unconstitutional. I think the proposal being put forward by the President and our own Energy Committee for an Energy Security Corporation is wrong. I do not know that it fits within the boundaries of what is the proper role of the legislature and what is the proper role of the executive branch.

I certainly think it is wrong to create a separate trust fund to finance these operations even in spite of the urgent nature of getting under way with them. The funding reguirements for energy may be greater or smaller than the revenues from a so-called windfall profits tax.

Mr. President, I have the greatest fear that down the road we will look back in 1985 and understand that we created some structures here that may or may not have contributed to the production of synthetic fuels in this country, but certainly contributed to the confusion in Government and the overlapping and duplication frustrating most Americans. I hope we do not go beyond what needed to be done to achieve the results which all of us desire.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona.

UP AMENDMENT NO. 648

(Purpose: To allow the Department of the Interior to disburse certain funds appropriated for fiscal year 1979)

Mr. DECONCINI. Mr. President, I send an unprinted amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Does the Senator from Kentucky wish to temporarily lay aside the amendment of the Senator from New York and allow the Senate to proceed to the consideration of the amendment of the Senator from Arizona?

Mr. HUDDLESTON. Mr. President, I ask unanimous consent that the amendment of the Senator from New York be temporarily laid aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment of the Senator from Arizona will be stated.

The assistant legislative clerk read as follows:

The Senator from Arizona (Mr. DECONCINI) proposes an unprinted amendment numbered 648.

Mr. DECONCINI. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At an appropriate place, insert the following:

"Notwithstanding the provisions of section 6 of the Act of April 16, 1934 (48 Stat. 596), as added by section 202 of the Indian Education Assistance Act (88 Stat. 2213, 2214; 25 U.S.C. 457), funds appropriated pursuant to this or any other Act for fiscal years ending September 30 of 1979 and 1980 may be utilized to reimburse school districts for up to the full per capita cost of educating Indian students (1) who are normally residents of the State in which such school districts are located but do not normally reside in such districts, and (2) who are residing in Federal boarding facilities for the purpose of attending public schools within such districts."

Mr. DECONCINI. Mr. President, the amendment I propose simply allows the Bureau of Indian Affairs to expend funds appropriated in fiscal year 1979, and included in the fiscal year 1980 bill.

For the 20 years prior to 1974, funds appropriated under the Johnson/O'Malley Act were used to pay the entire per capita tuition for all students living in BIA dorms regardless of their home residence. When this agreement expired, an effort was made to continue a BIA desire that the States assume responsibility for education. JOM money would no longer be used for tuition costs for in-State students. But, in early 1975, a waiver of the implementing regulations for Public Law 93–638, the Indian Education Assistance Act, allowed the use. Thus, the Arizona tuition program functioned for 3 more years.

However, in the fall of last year, an opinion issued by the Arizona Field Solicitor, and reviewed by the agency, rendered the payments to be illegal. Therefore, four school districts are faced with not receiving approximately $180,000 for services already rendered.

Mr. President, I believe this practice should be reviewed by the proper legislative authorizing committee, but this amendment is the only recourse we have to correct the present impasse.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. HUDDLESTON. Mr. President, we had an opportunity to review the amendment by the distinguished Senator from Arizona. We have no objection to including it at this time. The staff has not had an opportunity to review fully the potential impact, so we want to reserve the right to give it further study between now and the time we go to conference.

We have no objection to the amendment; and it has been cleared on the other side of the aisle, I understand. We are ready to accept it.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. DECONCINI. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HUDDLESTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DECONCINI. Mr. President, I thank the Senator from Kentucky and the ranking minority Member for their courtesy. The amendment is very important to a couple of schools and their students there.

The PRESIDING OFFICER. The question recurs on consideration of the amendment of the Senator from New York.

The Senator from Kentucky is recognized.

Mr. HUDDLESTON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HUDDLESTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HUDDLESTON. Mr. President, I ask unanimous consent that the pending amendment be temporarily set aside.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The Chair understood the motion to set aside both pending amendments.

UP AMENDMENT NO. 649

(Purpose: To delete $10,000,000 in Energy Policy and Conservation Act grants and increases the allocation for coal conversion by $10,000,000)

Mr. HUDDLESTON. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will state the amendment.

The legislative clerk read as follows:

The Senator from Kentucky (Mr. HUDDLESTON) for himself, Mr. ROBERT C. BYRD, Mr. RANDOLPH, and Mr. FORD, proposes an unprinted amendment numbered 649: On page 41, line 18, insert the following: Delete "$702,502,000" and insert in lieu thereof "$692,502,000"; on page 43, line 1, delete "$144,264,000" and insert in lieu thereof "$154,264,000".

Mr. HUDDLESTON. Mr. President, the purpose of this amendment, which is offered on behalf of myself, Senator BYRD of West Virginia, Senator RANDOLPH, and Senator FORD, is to increase from $20.3 million to $30.2 million the appropriation for coal utilization under the Economic Regulatory Administration. This increase is offset by a reduction in the energy policy and conservation grant program which brings the Senate figure in line with House action on this program.

Coal utilization funds are to be used for implementation of the powerplant and Industrial Fuel Use Act of 1978 for the conversion of coal capable oil and gas burning facilities to coal. In private conversations with the officials of the Department of Energy, it is my understanding that an additional $10 million will lay the groundwork for the conversion of almost twice as many facilities as would have been converted under the lower budget figure.

Coal conversion offers our most promising and short-term alternative to foreign oil imports. Studies by the President's Commission on Coal indicate that up to 724,000 barrels of oil per day could be saved by the conversion of coal capable plants alone.

We have new leadership at the Department of Energy, and a new commitment to coal. It is important that we give them the tools they need to get the job done.

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, the effect of the amendment of the Senator from Kentucky is to take $10 million from the State grants program, which was added by the committee. There was no budget request for that amount. There was, however, an overall request for a program that was not authorized and the committee has singled out this one item as being meritorious.

If the Senator's amendment is approved, it will mean we will not be funding an unbudgeted item and the burden would be on the administration, particularly the Department of Energy, to come forward and ask for reprograming of funds that are authorized and appropriated here in excess of their needs.

I can think of many of those, particularly weatherization where there is too much money. They cannot spend it in 1 year. We all know it.

So I do not oppose the Senator's amendment because I know the State's program can be taken care of through the simple mechanism of a reprograming request by the Department of Energy.

Mr. HUDDLESTON. Mr. President, I move the adoption of the amendment.

The PRESIDING OFFICER (Mr. LEVIN). The question is on agreeing to the amendment of the Senator from Kentucky.

The amendment (UP No. 649) was agreed to.

Mr. HUDDLESTON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HUDDLESTON. Mr. President, I ask unanimous consent that I may be added as a cosponsor of Amendment No. 520 as proposed by the Senator from West Virginia (Mr. ROBERT C. BYRD).

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 1:30 P.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess until the hour of 1:30 p.m. today.

There being no objection, the Senate, at 12:03 p.m., recessed until 1:30 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. FORD).

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

TIME LIMITATION AGREEMENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the following votes occur as sequenced in the request I am about to make:

A vote occur on the modified amendment by Mr. JAVITS at 5 p.m. today; a vote occur on the amendment by Mr. ROTH immediately thereafter; a vote occur on the amendment by Mr. McGOVERN immediately after the disposition of the Roth amendment; a vote occur on the pending Byrd amendment, as amended, immediately after the disposition of the McGovern amendment; and a vote on final passage of the bill occur upon the disposition of the Byrd amendment.

The PRESIDING OFFICER. Is there objection?

Mr. STEVENS and Mr. METZENBAUM addressed the Chair.

Mr. STEVENS. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, it is understood there will be a time limit. Will the majority leader agree to seek that time limit on the Javits amendment and the Roth amendment?

Mr. ROBERT C. BYRD. Yes. With the further proviso that there is a 40-minute time limitation on the amendment by Mr. JAVITS to be equally divided and controlled in accordance with the usual form and 30-minute time limitation on the amendment by Mr. ROTH to be equally divided and controlled in the usual form.

Mr. STEVENS. Mr. President, reserving the right to object further, could we have the remainder of time equally controlled by the managers of the bill?

Mr. ROBERT C. BYRD. Yes, the remainder of the time between now and 5 p.m., with the exception of the time that is allotted to the two Senators on their amendments, would be controlled by Mr. STEVENS and Mr. HUDDLESTON.

Mr. STEVENS. Mr. President, I am more than willing to allot time to the Senator from South Dakota (Mr. McGOVERN). We do not have any time for him. But I do think that it should be understood that the time will be controlled.

Mr. ROBERT C. BYRD. Let us save 30 minutes to Mr. McGOVERN with the understanding that the managers of the bill could allot additional time.

Mr. STEVENS. There is no objection to that.

The PRESIDING OFFICER. Is there objection?

Mr. JAVITS and Mr. METZENBAUM addressed the Chair.

Mr. JAVITS. Mr. President, reserving the right to object, will the Senator protect me if I need any modification of my amendment?

Mr. STEVENS. That is already done, I say to the Senator from New York.

Mr. METZENBAUM. Mr. President, reserving the right to object, it is possible that upon the defeat of the Javits amendment there may be a desire to offer a subsequent amendment and if the majority leader will see fit to provide something like 40 minutes in the event I, or some designee, desire to offer an amendment then I have no objection. I shall appreciate that.

Mr. ROBERT C. BYRD. Mr. President, the Javits amendment will not be lost, but in conformity with the suggestion that has been made by Mr. METZENBAUM, which I think is a good suggestion, I include that in the request and that the time be under his control.

Mr. METZENBAUM. I thank the majority leader.

Mr. ROBERT C. BYRD. That is the time on such amendment.

Mr. METZENBAUM. I understand.

Mr. ROBERT C. BYRD. I take it he would offer it.

Mr. METZENBAUM. I intend to offer an amendment but I might not do it.

Mr. STEVENS. Mr. President, I ask the majority leader, in the event the Javits amendment is defeated and Mr. METZENBAUM's time comes into effect we would move back the timeframe for commencing the vote. The Senator from Ohio may not realize it. The vote on the Javits amendment does not take place until 5 p.m.

Mr. METZENBAUM. Five p.m. I am aware of that.

Mr. STEVENS. In the event it is defeated then the Senator from Ohio's time would come in and other votes would be moved accordingly.

Mr. METZENBAUM. That is correct.

Mr. ROBERT C. BYRD. Mr. President, in the event the Javits amendment is defeated, and I dare say it will not be, then Mr. METZENBAUM would have an opportunity to call up his amendment and have 40 minutes equally divided and have it disposed of before the Roth amendment.

Mr. METZENBAUM. I thank the Senator.

Mr. STEVENS. Mr. President, I say to the Senator from Ohio, it is my understanding the Javits amendment will be modified. We have the right for him to modify the amendment and so modified it is my understanding it will be acceptable to the managers of the bill on the majority and minority sides. So in all probability the Javits amendment should pass unless there is something I do not know about it.

Mr. METZENBAUM. I am delighted to learn that, and I will certainly have no desire to offer an additional amendment in the event the Javits amendment is accepted.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I thank all Senators.

The PRESIDING OFFICER. Who yields time?

The Senator from New York.

AMENDMENT NO. 521, AS MODIFIED

(Purpose: To provide energy fuel assistance funds)

Mr. JAVITS. Mr. President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from New York (Mr. JAVITS), for himself and Mr. KENNEDY, Mr. STAFFORD, Mr. METZENBAUM, Mr. LEAHY, Mr. RIEGLE, Mr McGOVERN, Mr. WEICKER, Mr. DURKIN, Mr. GLENN, and Mr. PELL, proposes an amendment numbered 521, as modified:

On page 4, after line 3, insert the following:

EMERGENCY FUEL ASSISTANCE

For emergency fuel assistance programs administered by the Director of the Community Services Administration under section 222(a)(5) of the Economic Opportunity Act of 1964, $1,200,000,000, to be transferred to the Director of the Community Services Administration.

The PRESIDING OFFICER. The Senator from New York.

Mr. JAVITS. Mr. President, I yield myself 5 minutes.

Mr. STEVENS. Mr. President, will the Senator yield to me just one moment?

Mr. JAVITS. Of course.

Mr. STEVENS. Mr. President, it is my understanding the Senator is going to modify this amendment. May I inquire if the Senator from New York would be willing to qualify his amendment, as modifies it, to the extent that this money that is made available to CSA, it cannot be reprogramed or transferred from CSA?

Mr. JAVITS. Mr. President, will the Senator give me a few minutes to find out what the points are?

Mr. STEVENS. Yes.

Mr. JAVITS. Mr. President, the reason for calling up my amendment was that I noted the presence in the Chamber of Senators MUSKIE and BELLMON, and I know the Budget Committee has a very great interest in this matter.

Mr. MUSKIE. Mr. President, will the Senator yield?

Mr. JAVITS. Yes.

Mr. MUSKIE. I would like to make it clear that our presence in the Chamber is accidental. We are not here because we were notified of developments which we understand have already taken place today, and are developments which are planned for the day.

We find ourselves on the threshold of a renewal of the budget conference with the House Budget Committee at 2 o'clock in which this issue, as well as others, is very much in disagreement between the two bodies.

While we expect to find ourselves in the Cannon Office Building, the committee rooms of the House Budget Committee, negotiating this and other issues, apparently here in the Senate Chamber the Senate will be acting to take discretion out of our hands.

Mr. JAVITS. Mr. President, will the Senator allow me to continue?

Mr. MUSKIE. Of course. I just wanted to make it clear we are here without any previous notifications.

Mr. JAVITS. I think the Senator is jumping at very fast conclusions.

Mr. MUSKIE. That is not jumping at a conclusion.

Mr. JAVITS. Mr. President, would the Senator allow me to continue?

Mr. MUSKIE. Of course.

Mr. JAVITS. When I said what I did I meant it literally. I was prepared to give the Senator all the notice in the world. I did not know there were any conflicting engagements or anything else. I was pleased, when they walked into the Chamber, to be able to call up this amendment as we are supposed to vote at 5 o'clock, and there are other amendments en suite.

If the Senator will find it more convenient I am perfectly willing to take the amendment down and offer it again at 4:20 so that the Senator will have plenty of time.

First let me explain what it is all about.

Mr. MUSKIE. Let me just comment on that. If we are going to vote on the Senator's amendment sometime this afternoon, there is no way for me to be here unless I ask the House conferees to simply adjourn the conference which, by law, is supposed to be finished tomorrow, until the Senate decides what it is going to order us to do. It is the same complaint I made yesterday, and it is still relevant today. I find it a most frustrating situation in which to find myself.

I understand the Senator's interests, and I do not challenge his position, but I am simply making the point that I cannot be here and in the Cannon Office Building at one and the same time, fighting this very same issue on the Senate floor and also fighting it in conference with the House Budget Committee. There is no way for me to do both things. I am under a mandate from the Budget Act to finish this conference, which is supposed to be finished in 7 days from the day it begins or the conference is discharged.

We have got difficult issues to resolve in that budget conference, and I can hardly go over there, and engage in that, while this business is pending here.

Mr. JAVITS. Mr. President, the scheduling of the Senate is not my doing. If the Senator from Maine can get his leader to put this matter over until tomorrow or Friday, Saturday, Monday, any time he wishes to, I am more than happy to cooperate. This is not my choice, and I do not wish to be charged with it.

The PRESIDING OFFICER. The Senator has used his 5 minutes.

Mr. JAVITS. I yield myself 5 more minutes.

Mr. President, no deals have been made of any kind or character, but the closeness of the vote last night and the fact that a good many Members of the Senate are just as worried as I am about this situation, and just as factual about it, compelled me to rethink what could be done.

In an effort to rethink, I consulted with the manager of the bill, and there is nothing more logical than that, and I suggested to him a course of action which I think endeavors to solve the dilemma in which many Members, not only I, were placed, and that dilemma is this:

On the one hand, we realize time is of the essence in this matter. If we are going to do it, we have very little time in which to press the button that will set the machinery in motion. Therefore, we are using existing machinery. There is no question about that, and it is machinery which has been used before.

If we delay, Mr. President, it takes 80 days to begin to get these checks out. If we acted right now, promptly, they could get out in early January. If we wait until the next opportunity, the next continuing resolution or supplemental, it is clear and assured that it is not less than 30 days and probably more.

So I suggested to the manager of the bill the course which I am now adopting, and that is to reduce the amount sought from $1.35 billion to $1.2 billion, relying upon the normal appropriations processes for the balance.

The fact is there is $250 million in the continuing resolution, and that the Appropriations Committee has under consideration in one of its subcommittees $150 million as asked for by the President.

The only two things which this will do are the following, if the Senate does act favorably: One, it will separate the $1.2 billion from the excess profits tax condition which the President has put on it. So if the Senate votes affirmatively it will be saying, "We are going to deal with this matter without regard to the excess profits tax."

The second thing it will do, Mr. President, is to advance the matter by putting it in the stream of conferences of the Appropriations Committee and the Budget Committee, both of which are now in conference on various matters, including this bill, which will go to conference after we vote it this afternoon. That is a measurable step forward because in that way something can be done without waiting for the next opportunity to come along, whenever that is.

Those are the only two accomplishments. I have made it clear, Mr. President, and I make it clear again to the ranking member and to the chairman of the Budget Committee and to the chairman of the Appropriations Subcommittee, the Appropriations Committee and their ranking members, that the matter is in their custody. They will have the opportunity to fashion what should be a suitable remedy for a situation which appalls all of us, not me alone, but every Member of the Senate.

It seems to me, Mr. President, that that is doing things the right way, and that the wrong way would be simply to throw our bodies across the tracks and say, "Because all the procedure is not ready, because all the pieces are not in place, we are not going to do anything," when there is an opportunity to do something. That is the only thing I plead for with the Senate.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. DANFORTH. Mr. President, it is my understanding, and I voted with the Senator from New York last night, and reflection that if we follow the Senator's approach on this, then relief for those in need because of the energy crisis will be in the form of a block grant to the States; is that correct?

Mr. JAVITS. The Community Services Administration has been administering this program through the governors of the States but subject to its regulations which give priorities, for example, and so forth, so that it does actually go through the agency of the States but under regulations of the Community Services Administration.

Mr. DANFORTH. Here is my problem with it. We are now in a process of wrestling with exactly this question in the Senate Committee on Finance in connection with the windfall profits tax, and we will, as a matter of fact, be going back at 2:30 this afternoon to redo consideration of this matter.

But it is my understanding, and the understanding of some of us, that at least some States are simply not in a position to effectively administer this as a block grant program.

The PRESIDING OFFICER. The Senator has used his time.

Mr. JAVITS. I yield myself 2 additional minutes.

Mr. DANFORTH. For that reason, the approach some of us have taken in the Committee on Finance, including the Senator from Missouri, is that the States should be offered a block grant, but that they would be in the position of turning it down if they are not able to manage it, so that the funds could be distributed by the Federal Government to, say, food stamp eligible persons and SSI recipients.

Mr. JAVITS. Well, now, let me clarify first. The fact is that three-quarters of this money will go to the SSI and the AFDC. The difficulty with the food stamps is that there is no accurate record on the Federal level, whereas with others there is a record. Only a quarter of the money will go to the Governors of the States, and the Finance Committee, I do not think I have to assure the Senator can easily get the ECA to do what he wants, because they know you are working on permanent legislation.

Mr. DANFORTH. But a portion of the money would be administered through block grants; is that not right?

Mr. JAVITS. I assure the Senator right now that what he suggests is eminently sensible and practicable.

Mr. DANFORTH. I am not sure, though, that necessarily a portion of the money would be in a block grant.

Mr. JAVITS. The Senator's suggestion is that the money be offered as a block grant to the Governors only if they have the facilities to distribute it equitably?

Mr. DANFORTH. That is correct.

The PRESIDING OFFICER. The Senator's additional 2 minutes have expired. Who yields time?

Mr. BENTSEN. Mr. President, I would like, for the purpose of engaging in a colloquy, unanimous consent to propose an amendment which I shall later withdraw.

Mr. HUDDLESTON. I believe it would require unanimous consent to set aside the pending amendment temporarily.

Mr. BENTSEN. That is what I request. I ask unanimous consent that we set aside the pending amendment for the purpose of offering an amendment which I will later withdraw, for the purpose of establishing a colloquy.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Texas? Without objection, it is so ordered. The Senator from Texas.

UP AMENDME .T NO. 650

(Purpose: To provide unds to prevent further flood and erc ion damage at the Lyndon B. Johnson National Historic Site)

Mr. BENTSEN. Mr. President, this a minor matter, but it is a major matter as far as the Lyndon B. Johnson National Historic Site is concerned. They have had a couple of major floods in two consecutive years, and have had substantial damage there. I send an amendment to the desk and ask for its consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Texas (Mr. BENTSEN) proposes an unprinted amendment numbered 650: On page 14, line 12——

Mr. BENTSEN. I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 14, line 12, insert the following: Strike "$119,938,000" and insert "$120,263,000".

Mr. BENTSEN. I understand the objections of the committee on both sides to adding funds to this particular piece of legislation for this purpose, but what I am asking in lieu of that is that the Department of the Interior bring about some reprograming of funds to try to take care of this emergency situation.

What we have involved here is some $325,000 to be expended for backsloping and rip-rap, immediate needs that have to be taken care of or we will have further immediate damage to this national historic site.

We have talked about this with the majority and the minority, and it is my understanding that that would be acceptable. Will the Senator from Kentucky please advise me whether that understanding is correct?

Mr. HUDDLESTON. The staff of the committee has looked at this problem and at the figures the Senator has indicated to us here as to the particular damage and what is needed to be done. We are of the opinion that it should be done. We think it can be done through reprograming, and we would certainly be sympathetic to replacing any funds that had to be diverted from other jobs just as soon as the Department sends to us the justification of the need.

Mr. BENTSEN. Will the managers of the bill advise me if that is also the viewpoint of the minority? Can the Senator from Alaska advise me if that is the viewpoint of the minority, that the request for reprograming of this $325,000 be done by the Department of the Interior, to provide protection for the Lyndon B. Johnson National Historic Site on the Pedernales?

Mr. STEVENS. I say to my good friend from Texas that we would certainly be sympathetic if there were a justification for reprograming. I do not believe we have ever objected to a reprograming that is fully justified.

Mr. BENTSEN. Mr. President, I ask unanimous consent to withdraw my amendment at this time.

The PRESIDING OFFICER. Without objection, the amendment is withdrawn. The question recurs on agreeing to the amendment of the Senator from New York.

AMENDMENT NO. 521, AS MODIFIED

Mr. STEVENS. Mr. President, before proceeding with that amendment, will the Senator yield for a parliamentary inquiry?

Mr. JAVITS. I yield.

The PRESIDING OFFICER. The Senator will state his inquiry.

Mr. STEVENS. Is my understanding correct that the Javits amendment is an amendment to the Byrd amendment?

The PRESIDING OFFICER. The Senator is correct.

Mr. STEVENS. Would the Senator from New York be willing to modify his amendment so that it is an amendment to the bill at the appropriate place, and not to the Byrd amendment, so that we may take care of a parliamentary situation?

Mr. JAVITS. I have no objection to that, except that I assume it would require unanimous consent, since the Byrd amendment is pending.

Mr. STEVENS. I ask unanimous consent——

Mr. JAVITS. Let me put that in the form of a parliamentary inquiry.

The PRESIDING OFFICER. It does require unanimous consent.

Mr. JAVITS. Then, Mr. President, I ask unanimous consent that my amendment may appear at the appropriate place in the bill; that it not be an amendment to the Byrd amendment, but that its consideration now may continue.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. Who yields time?

Mr. ROBERT C. BYRD. Mr. President, who has the floor?

The PRESIDING OFFICER. The Senator from Alaska has the floor. Who yields time?

Mr. HUDDLESTON. Mr. President, I yield the majority leader such time as he may require.

Mr. ROBERT C. BYRD. I thank the Senator. Mr. President, I ask unanimous consent, with respect to the order that was earlier entered anent the sequential voting on amendments and final passage of the bill, that it be altered to this extent: that the motion to reconsider the vote on the amendment by Mr. JAVITS, which would occur later today, not be in order until Thursday of this week, and that immediately following the vote on the motion to reconsider the vote on the Javits amendment on Thursday, the bill be advanced to third reading without further amendment or debate, and to final passage without further debate, and that paragraph 3 of rule XII be waived.

Mr. STEVENS. Mr. President, reserving the right to object, would the majority leader consider having advancement to third reading occur after the vote on the Byrd amendment today? I want to make sure we advance to third reading today, and close off the amendatory process as soon as possible.

Mr. ROBERT C. BYRD. I believe my request would do that.

The PRESIDING OFFICER. Is there objection?

Mr. DURKIN. Mr. President, reserving the right to object, and I will not object——

Mr. ROBERT C. BYRD. Will the Senator let me rephrase my request, please?

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, at a certain hour today the Senate will vote on the modified amendment by Mr. JAVITS. There are certain reasons why it is desired that that vote be reconsidered on Thursday, and that in the meantime the bill go to third reading, or in essence go to third reading, so that other amendments to the bill will be closed off, so that on Thursday we would only vote on the reconsideration of the vote on the amendment by Mr. JAVITS.

Mr. HUDDLESTON. And then proceed to final passage.

Mr. ROBERT C. BYRD. And then final passage, without further amendment or debate. That is what I am about to ask the Senate to do by my request; but before I propound the request, I would like to know if the Senator from New Hampshire has some difficulty with it.

Mr. DURKIN. I hope not. The situation is that in my opinion we have legislation on an appropriation item with respect to the curtailment of refined products under entitlement. I do not want to be put in a position where I am precluded from making a point of order, not on the bill, but on that particular item, which treats of entitlement extensions as an energy action requiring the action of Congress.

Mr. ROBERT C. BYRD. The Senator does not have reference to any of the items, I do not believe, that are listed in the order. What amendment would that be?

Mr. DURKIN. It will not be in the form of an amendment. Senator JOHNSTON's committee amendment.

Mr. ROBERT C. BYRD. The Senator wants to make a point of order on that committee amendment, as I understand it.

Mr. DURKIN. Yes; I do not want to be precluded on that. I support your efforts, and I have supported and cosponsored Senator JAVITS' amendment.

Mr. ROBERT C. BYRD. Would the Senator be willing to do that today?

Mr. DURKIN. Yes, at any time. I want to inform Senator JOHNSTON before I do it.

Mr. ROBERT C. BYRD. The committee amendments were agreed to on the condition that points of order would not be waived, so the Senator from New

Hampshire has the right to make that point of order.

Mr. McCLURE. Mr. President, will the Senator from West Virginia yield for a question?

Mr. ROBERT C. BYRD. Yes.

Mr. McCLURE. Is my understanding correct, then, that the action on the Javits amendment of yesterday has been totally wiped out, but that it is your intention to go to a rollcall vote on the Javits amendment today, and that in the event it passes or fails, it would be subject to reconsideration, but reconsideration only if so voted on Thursday; is that correct?

Mr. ROBERT C. BYRD. Precisely.

(Mr. LEVIN assumed the chair.)

Mr. McCLURE. Mr. President, the reason I ask that question is that I understand that the Senators from Maine and Oklahoma are seeking to be able, in the budget conference, to work a compromise between the House and the Senate on the issue raised by the Javits amendment, or the several issues raised by the Javits amendment, without having been prejudiced by a position taken by the Senate prior to that time.

It would seem to me, if that is really their desire, that all of the votes on the Javits amendment should be reserved until Thursday, because having voted on it certainly does have some effect upon the conferees' latitude in the conference. I just wonder if the Senator from New York, the Senator from Oklahoma, and the Senator from Maine have discussed the possibilities of having all of the votes on the Javits amendment on Thursday rather than simply reconsideration.

Mr. ROBERT C. BYRD. May I say the Senator mentioned the Senator from Maine. The Senator from Maine is agreeable to having the vote today, with the reconsideration vote going over until Thursday, because that would not constitute final action by the Senate.

Mr. JAVITS. So does the Senator from Oklahoma. We both agree.

Mr. McCLURE. I understand now that they have agreed, but I am not sure that I understand why they are afraid of having Senate action on this amendment unless they are assuming that it will be defeated today and they want to preserve to the Senator from New York the opportunity to revive it on Thursday.

Mr. ROBERT C. BYRD. They are faced with a fait accompli. The vote on the amendment by Mr. JAVITS is already set by unanimous consent and will occur today. That was done before Mr. MUSKIE was advised that it was about to happen. So he only hopes now that the motion to reconsider will be preserved until Thursday, which would allow him in conference to say quite legitimately and properly that the Senate has not finally acted.

Mr. McCLURE. If the Senator will yield further, I understand that that is true, but what the Senator is seeking now takes unanimous consent, and I assume the earlier action could be accomplished by unanimous consent, too. Perhaps the Senator from New York wants to comment. Truly, if we want to leave the Budget Committee free to act without having been in any way prejudiced by action taken by the Senate on the Javits amendment, it would seem to be better to leave the vote until Thursday in order to accomplish that. I understand, too, that the Senator from New York does not wish to pass the opportunity to put the Senate on record on this issue, and he could do that by waiting until Thursday. It does not have to be done today.

Mr. JAVITS. The Senator proceeds on the wrong assumption, that they expect this amendment to be defeated. They do expect it to pass. Their agreement is premised on the idea that it will. That is why they want the agreement they want. There are reasons for it, as negotiators. I cannot define those. But the arrangement made was satisfactory to me because I always wish to accommodate Senators. If the Senate wishes to reverse itself Thursday, there is nothing in the law that says it cannot. I am pretty adult and I know it can. But I do want this amendment acted upon today for this reason: One, there has been a very thorough debate and this is what the lawyers call the res gestae. They have actually thought about it, thought it overnight, deliberated on it, and I think most Senators have come to a firm conclusion. I am the advocate of the amendment. I wish to act on it.

Mr. McCLURE. I understand. I thank the Senator for his explanation. But certainly if the Budget Committee wants to go to that budget conference unprejudiced by a vote of the Senate, they are certainly not accomplishing that by the expectation that it will be voted affirmatively today and then go to the conference and say, "Now we are free to act," because they are certainly not free to act. The Senator from New York obviously would be pleased by that result because he desires first that the amendment be agreed to and, second, that the budget conference be influenced by this act, which is his desire. But at least from the standpoint of the Senator from Idaho, I have no illusions that that really frees the Senate's Budget Committee conferees in any way from the influences of having had a vote upon the motion today.

Mr. JAVITS. I think it is a good idea for conferees to have an idea about how their body feels. This is the first time I have ever heard that conferees would like to reject how their body feels and not even know it.

Mr. McCLURE. It seems to me that is precisely what the Senator from Maine was saying all yesterday afternoon.

Mr. JAVITS. He found out yesterday afternoon and he will have the opportunity to find out again today. I might say to the Senator if he is particularly anxious to be recorded against it he, like another Member when they ask for a recorded vote, will get it. The Senator knows that. I have told the other Senators who were concerned that I will not ask for a record vote today. But if the Senator wishes to, he may. I will take my chances.

Mr. McCLURE. Will the Senator yield further?

Mr. JAVITS. Yes.

Mr. McCLURE. If the Senator from New York is trying to persuade the Senator from Idaho to not speak to the unanimous-consent request, he is certainly not succeeding in that purpose. The Senator from Idaho can object.

Mr. JAVITS. Of course he can, and I can, too.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield to me?

Mr. McCLURE. Of course.

Mr. ROBERT C. BYRD. I hope the Senator will allow this procedure to go along in deference to the request by Mr. MUSKIE.

Mr. McCLURE. Is it possible, Mr. President, and is it the expectation of the majority leader, that it be done by a voice vote, that there be no record vote on this matter today?

Mr. ROBERT C. BYRD. That would be fine with me.

Mr. McCLURE. But that is not part of the deal?

Mr. ROBERT C. BYRD. No, it is not.

Mr. McCLURE. Mr. President, it is a curious situation, so far as I can see, in which we seek not to influence them but we are going to have a vote on it for the purpose of influencing them. If, as a matter of fact, it is then the desire not to influence them but we are going to have a vote today to accommodate the Senator from New York, then it would seem to me that we ought to also by unanimous consent say that it be by voice vote. Or can we agree to accept it by unanimous consent? In that way there would be no influence on the Budget Committee and their actions, or at least it would be less than if there was a recorded vote on it.

Mr. ROBERT C. BYRD. I feel this will be satisfactory.

Mr. McCLURE. I do not mean to prolong this, but I find this curiouser and curiouser and curiouser. I appreciate the explanation of the Senator from New York, but there is something, obviously, as to the expectation to come from a voice vote because that does indicate to me that there has been some understanding. I am not certain yet whether the Senator from Idaho is agreeable to a voice vote on it. I do not like the entire procedure of trying to make promises in regard to future actions by the Appropriations Committee. I am troubled by that in this instance as well as the other.

I favor the program. I will vote for the program, but I do not think that trying to do it ahead of the actions being taken by authorizing committees is going to get it done.

Mr. JAVTIS. Will the Senator yield once more? I will try to control my tone of voice,

Mr. McCLURE. I thank the Senator.

Mr. JAVITS. I apologize if I seem irritated. I am not. My motives are very simple. This matter has been debated. We passed on it last night. There was another opportunity to pass on it today because the motion to table was to be voted upon today. From my understanding with the manager of the bill, that was dispensed with for this procedure, because I was willing to reduce the amount to meet what seemed to be the way the thing was laid out, that is, $1.2 billion in this bill and $400 million in

other bills. Apparently, this is a procedure which is entirely agreeable to Senators MUSKIE and BELLMON. My feeling about the thing is that it is a sound thing, a good thing, an important thing that the Senate let its conferees know how it feels about this matter.

Sure, it may influence them in their negotiation; it may not. I have no idea, because both of them voted against it last night. They can vote against it again.

I am grateful to the Senator for being for it. I think it deserves that. But I do not see any improper prejudice by acting on this at the time when we are supposed to act on it. That is all.

Mr. McCLURE. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. Yes.

Mr. McCLURE. Does the form of the Javits amendment now clearly identify the source of funding for the program? In other words, will it clearly now be an energy function in the Budget Committee crosswalk or an income security function in the Budget Committee crosswalk? Or is that something that is unresolved?

Mr. JAVITS. Well, I believe that the matter will be negotiated in the conference by this particular subcommittee. But the appropriation is an appropriation which will move through the Community Services Administration.

Mr. McCLURE. That is, generally speaking, the Community Services Administration is in the income security item by budget function; is that not correct?

Mr. JAVITS. I do not recall that, as a matter of fact. I think it is.

The answer is yes.

Mr. McCLURE. The Senator from Kansas is a member of the Budget Committee and, I might say, the Senator from Idaho is a former member of the Budget Committee. It is my understanding, if that is the case, that money being suggested for the program at this time would be in the income security function of the budget and whatever direction there is to our conferees, whatever influence this action might have with respect to our conferees, would indicate that that is where it would be. As I recall, that is one of the items for consideration in the conference.

The Senate Budget Committee having already put $600 million into the income security function for this purpose——

Mr. JAVITS. $500 million.

Mr. McCLURE. And the House having put $1.6 billion for this purpose in the energy function, I think that, that being one of the important items to be resolved in the conference, having a clear record here for whatever influence it may have on the conferees might be helpful in supporting the already expressed conviction of the members of the Budget Committee on behalf of the Senate and the action taken by the Senate on the second concurrent resolution, that this item is appropriately in the income security function within the budget.

I thank the Senator for yielding.

I say to the majority leader that I shall not object to this request, although, as I say, it gets curiouser and curiouser.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished Senator.

The PRESIDING OFFICER. Is there objection?

Mr. ROBERT C. BYRD. Should I repeat the request? I think perhaps I should.

Mr. DURKIN. Will the leader yield?

Mr. ROBERT C. BYRD. Yes.

Mr. DURKIN. Would it be appropriate at this time to ask, as a part of the same request, that we be given a half-hour on the point of order, equally divided between Senator JOHNSTON or his designee and myself?

Mr. ROBERT C. BYRD. Yes.

Mr. President, I ask unanimous consent that, on a point of order which will be raised by Mr. DURKIN to a committee amendment later today or at any point during the afternoon, there be a 30-minute time limitation on the point of order, to be equally divided between Mr. DURKIN and Mr. JOHNSTON.

Mr. JAVITS. Two other things, Mr. President.

Mr. ROBERT C. BYRD. This is separate from the request.

Mr. JAVITS. There are two other things which need to be dealt with.

As my amendment is now going onto the bill, I would ask that points of order be waived as against that. It is now in a different place and may have a different situation.

Second, it will be remembered that Senator METZENBAUM had a proviso that if my amendment were defeated, he would have a right to call up an amendment. That should be cranked into this.

Mr. ROBERT C. BYRD. Yes, Mr. President, I am glad the Senator from New York reminded me of that.

I make the request now with respect to the point of order by Mr. DURKIN.

The PRESIDING OFFICER. Is there objection? Hearing none, it is so ordered.

Mr. ROBERT C. BYRD. Now, Mr. President, I make the request, with respect to Mr. JAVITS' amendment, that it be detached from its earlier status as an amendment to my amendment and made an amendment to the bill without any points of order being waived.

The PRESIDING OFFICER. Is there objection?

Mr. McCLURE. Reserving the right to object, Mr. President, is it necessary to waive points of order against the Javits amendment?

Mr. JAVITS. The reason is that it is now, at their request, a part of the bill and not——

Mr. ROBERT C. BYRD. Oh, I am sorry. I misunderstood. The Senator does not want a point of order. Am I correct?

Mr. JAVITS. Yes, any point of order against it is waived because, at the suggestion of the manager, I made it part of the bill.

Mr. ROBERT C. BYRD. I misstated it, Mr. President.

Mr. JAVITS. It is not part of, not any part of the Byrd amendment.

Mr. ROBERT C. BYRD. Mr. President, I withdraw the request.

Mr. McCLURE. It will be offered as an amendment to the bill?

Mr. JAVITS. Right.

Mr. McCLURE. It seems to me it ought to stand on its own merits, with or without the waiver of the points of order. I do not understand why, having made that decision, it should now have a position that is favored over the position that it had before.

Mr. JAVITS. There is nothing favored about it, I say to the Senator. This is an amendment, as it stands now, to Senator Byrd's amendment, which deals with the subject of $1.5 billion that is being taken out of one account and put into another. It is that account which I tried to reach by my amendment. Now I am asked to take the amendment out of the Byrd amendment, where it is, I believe, unchallengeable, and put it into the bill generally. I have no idea what the situation is, but if I am doing that, why should I jeopardize it? That is the only reason I am taking this precaution.

Mr. McCLURE. Mr. President, I see no reason to waive points of order against this amendment. I do not know that anybody is going to raise one. I am not even sure it is subject to one. But I am not certain why, having made this change, it should now be subject to a waiver of points of order.

Mr. JAVITS. Only because it is an elementary precaution by me in view of the fact that I am taking the amendment out from where it belongs and putting it in the bill because that is the way in which it seems to accommodate Senators MUSKIE and BELLMON. That is the only reason I am taking this basic precaution.

Mr. ROBERT C. BYRD. Mr. President, he is doing this in order that the final disposition of his amendment may go over until Thursday.

Mr. JAVITS. Exactly.

Mr. ROBERT C. BYRD. And, this would not prevent final disposition of the Byrd amendment today.

Mr. McCLURE. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. McCLURE. Mr. President, does the change in form from an amendment to the Byrd amendment to an amendment to the bill change the status of the proposed amendment with respect to possible points of order?

The PRESIDING OFFICER. It would still possibly be subject to a point of order.

Mr. McCLURE. And it would be possibly subject to a point of order in its current status; is that not correct?

The PRESIDING OFFICER. The Chair reminds the Senator that this amendment was moved to the bill and is pending to the bill, according to the agreement reached 20 minutes ago.

Mr. McCLURE. So its current status does not change its status with respect to a point of order.

The PRESIDING OFFICER. Not in that respect.

Mr. McCLURE. Not in that respect.

Mr. President, I hope the Senator will not insist on asking that points of order be waived because surely, I have the understanding that he would like to have that and I do not know that any points

of order will be made against it, but I would be constrained to object

Mr. ROBERT C. BYRD. Mr. President, I hope, also, that the Senator would not insist upon that, if I may, upon the point of order waiver. I say that in the spirit of friendship and feeling that I am being helpful to him.

Mr. JAVITS. Well, Mr. President, I ask unanimous consent that I may call for a quorum without the time being charged against either side.

Mr. ROBERT C. BYRD. Will the Senator withhold that? Could we proceed with the rest of the request in the meantime?

Mr. JAVITS. Well, I think it kind of hangs on this. I need to know where I stand, and frankly, I do not right now. That is important to me. I have been here too long to get caught short on something like this.

Mr. President, I ask unanimous consent that my amendment be temporarily laid aside and that Senator RANDOLPH may be given the floor.

The PRESIDING OFFICER. Is there objection? Without objection it is so ordered.

The Senator from West Virginia is recognized.

Who yields time to the Senator from West Virginia?

Mr. HUDDLESTON. I yield what time the Senator may require.

Mr. RANDOLPH. Mr. President, earlier today during the debate on this appropriation measure, the able Senator from Colorado (Mr. HART), who is always well versed in discussion of the appropriate subject matter, made a particular point with regard to synthetic fuels. I know this from his leadership in the Committee on Environment and Public Works and his chairmanship of the Subcommittee on Nuclear Regulation. This afternoon, however, I feel that he perhaps did not have all the facts currently available when he suggested the Senate should agree that the expenditure of $20 billion for synthetic fuels proposed by this amendment is not compatible with the best interests of the American people to meet the energy tragedy in which the American people at present find themselves.

The Senator, my colleague with whom I work, expresses tribute to Chairman JACKSON of the Energy and Natural Resources Committee but cannot agree with the eloquent plea that Senator JACKSON made for this $20 billion which is asked for in this amendment being considered here.

Again, I must reinforce what Senator JACKSON has said. He spoke, as a part of his very cogent remarks, about the increases in the oil prices and the amount of petroleum supplies which are being imported in this country. Approximately one-half of all the oil that we use for operation of our motor vehicles, for heating oil, for general utility boilers, and other operations is imported. About one-half of the petroleum that we are using in one way or the other is coming from overseas.

So when we insist we should not move in what I call an all-out frontal attack in this matter, but rather explore the situation with timid steps, I believe the latter, Mr. President, will not suffice.

Let us see by reading the headline in this afternoon's Washington Star what is said about the very subject matter that I am discussing.

Libya, Iran Raise Oil Prices. Move Could Signal Wave Of Increases.

Libya, for example has raised its crude oil price to about $26 a barrel, breaking the ceiling which had been set by the OPEC countries at $23.50 a barrel.

The article goes on to state:

Iran also boosted its oil price, but only to the ceiling level. And oil industry and U.S. government sources again said there were indications that Iran was delaying oil shipments, despite Iranian denials.

Libya and Iran provide about 10 percent of the oil used by the United States, and analysts said the price increases could add a penny or two to the price of a gallon of gasoline or heating oil in the United States.

Last week Kuwait announced that it would raise its oil prices by 10 percent, effective Oct. 1. Kuwait's oil prices, however, remained below the $23.50 ceiling, averaging about $21.50 a barrel.

Besides increasing their official prices, some OPEC members have been diverting more of their oil into special sales above those prices. The result has been an expansion of the commercial spot market, where oil is freely traded, into a new tier of high-priced oil.

In recent days, prices on the upper-tier spot market have neared $40 a barrel.

This is not a rumor. This is a fact. It is substantiated by the Gulf Oil Corp., Marathon Oil, and Conoco, Inc.

This is a situation where I think the American people, very frankly, are going to wonder about the Senate of the United States. If it defeats the proposal for $20 billion for beginning a synthetic fuels, they are going to have the right to look and wonder, how long Government will continue to procrastinate before taking steps toward energy independence.

I need only refer my colleagues to the situation we had with the space programs of the world. Let us be very frank. Let us recognize that the Soviet Union was 10 years ahead of us. Is that right? Absolutely. Of course, we have a Member who was involved in our space program here on the floor today, who might want to comment if he cares to.

But the Russians were 10 years ahead of us during the Eisenhower administration. At that time it was estimated we could spend the approximate sum of $40 billion and do the Apollo space program in 20 years. Twenty years and $40 billion to develop a comprehensive program during a much less inflationary period of our history.

What happened? We made the Apollo program a priority. We started 10 years late, but we made a priority of it; a commitment by the American people to do the job.

It actually took only $20 billion. But we did it. Not in 20 years, but in 10 years.

This is the record in connection with that one program, the Apollo program.

We certainly should not forget that the Wright Brothers gave their genius to us through the gift of the heavier-than-air craft. They gave the gift of flight to the world, but principally to the United States of America. I say to the Senator from Kentucky (Mr. HUDDLESTON) who chairs the subcommittee dealing with this important subject, that they gave it to the United States of America 10 years before we ever decided to do anything about it in this country of ours. Every aircraft flying in World War I with U.S. pilots were manufactured in Europe. They were not constructed in the United States of America. They were constructed overseas.

Yet, American pilots were flying them. Yet we had a 10-year headstart in this country because of what the Wright brothers had done.

There are too many times when we do not move in this country. We wait until after the fact, rather than before the fact.

If we wait on this program of synthetic liquid fuels which is being offered here; yes, a massive program—call it that; yes, a program that costs money, we will again lose valuable time. But I state it is a program not to spend dollars, but to invest dollars, because a dividend in a more secure America and, thus a peaceful world, can result from the action that will be taken here later this afternoon.

I shall always remember, because I have been a student of aviation, two West Virginians who were working at Edwards Air Force Base in the days before we had planes flying faster than the speed of sound. Chuck Yeager from the hills of our State and, of course, his friend, Frank K. Everest, Jr. These were two pilots, among others, who were working and helping us move, in 1947 and 1948, into the space program.

I do not want the States and the local municipalities overrun by a synfuels development program. I do not want to set aside the States and the local communities right to make decisions affecting their areas. But I do know that this job is to begin, it must be started here, and it must be now.

I remind Senators that I am not one who will advocate the scrapping of environmental programs of this country to see that it is done. I would resist it. But we should realize, as we approach a vote later on this issue, that we are being asked to do something very concrete. Frankly, if Senators vote for it, in my opinion—and I respect every Senator—they are voting for something that is far more than symbolic. They are voting for something that is realistic—realistic in the type of world in which we live and the problems that beset us.

The necessary program must start now. The able Senator from Massachusetts said that nothing will happen; it will not go on line for another 10 years. If we do not act it will not be in 10 years or 8 years or 6 years—it will never be!

Action—and that comes almost always in crises situations in this country—comes when a President can and does act at the White House. In World War II, when we decided that we were going to have synthetic rubber plants in this country we moved out and did the program. This synthetic fuel development is somewhat the same situation. More dollars are involved, of course, but

with a wider scope of productivity and products.

I remind my colleagues again that it is not enough to say, "Well, we will have certain approaches, whatever they may be. We will get ready, and then all in good time we will do something about this."

I remind Senators that we have had the opportunity for 5 or 10 years to do something about this. I remind my colleagues that the opportunity has been there, but the opportunity has not been grasped collectively by administrations, by Senators, or by Members of the House.

I speak earnestly and vigorously because of a deep-down feeling I have that we cannot pass up this opportunity; we cannot pass up this responsibility to the leadership of Senator ROBERT C. BYRD and Senator HUDDLESTON and others in this body. If we move and move now, the American people, although they may not know it this afternoon, are going to recognize in the tomorrows that the Senate of the United States did not let the people of this country down. We have a real challenge and a real opportunity to commit ourselves to this program by saying "yes" or "no" later in the day.

I thank my colleagues in the Chamber for the opportunity of drawing these conclusions and bringing these matters to their attention. I do it in a sense of reiterating, perhaps, what I might have said in other ways yesterday when I had the colloquy with Senator TSONGAS. If Senator HART were in the Chamber, I might have a colloquy with him. But I do it because I feel—I sense, I know—that now is the time for affirmative action, and we will serve America well and all our people well if we get the job done.

UNANIMOUS-CONSENT AGREEMENT

Mr. ROBERT C. BYRD. Mr. President, an order has been entered providing for sequential voting on the amendments by Mr. JAVITS, Mr. ROTH, Mr. MCGOVERN, Mr. ROBERT C. BYRD, and then for a final vote on the bill itself, today.

I ask unanimous consent that upon the disposition of the amendment by Mr. JAVITS today, no motion to reconsider be in order today, but that the Senate then move on to the amendment by Mr. ROTH, in accordance with the order previously entered.

Provided, further, that when the Senate completes action today on the amendment by Mr. ROBERT C. BYRD, no further debate or motions or amendments with relation to the bill, with the exception of the motion to reconsider the vote and the motion to lay on the table that motion—that once that amendment is disposed of finally today, there be no further debate, motions, or amendments in relation to the bill today.

Provided, further, that on Thursday, following routine morning business, the Senate resume consideration of the bill, at which time a motion to reconsider the vote on the Javits amendment be in order; that a 10-minute limitation, equally divided, be in order on the motion to reconsider, with no motion to table in order. So that there indeed will be a motion to reconsider.

Provided, further, that upon the final disposition of the Javits amendment on Thursday, if the Javits amendment is rejected, Mr. METZENBAUM be recognized to call up an amendment on which there will be a 40-minute limitation, to be equally divided in accordance with the usual form; that in either case—namely, that if an amendment by Mr. METZENBAUM is called up, upon the disposition of that amendment, without further motion, debate, points of order, or amendments, the bill go to third reading and, without further motions, or debate, to final passage.

Provided, in the alternative, that if the amendment by Mr. JAVITS is approved, then, without further debate, motion, amendment, or point of order, the bill go to third reading, and without further delay and immediately, without any intervening motion or point of order, the bill go to final passage.

Mr. STEVENS. Mr. President, reserving the right to object, and I shall not object, can we have a time?

Mr. ROBERT C. BYRD. With paragraph 3 of rule XII waived.

Mr. STEVENS. Can we have a time when that vote will take place? The sequence would start on Thursday.

I have been notified that some Members on our side would want to be present on Thursday. They are scheduled to leave. Could the sequence start running at noon on Thursday?

Mr. ROBERT C. BYRD. I include that in my request.

Mr. STEVENS. The Senator from New York has a 10-minute time frame, 10 minutes to each side, so that the sequence would start at noon.

Mr. ROBERT C. BYRD. The order would begin running at noon.

Mr. STEVENS. I thank the Senator.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I yield.

Mr. JAVITS. Will the Senator protect me on any modification of my amendment?

Mr. ROBERT C. BYRD. Yes. The distinguished Senator from New York may be permitted to modify his amendment today.

Mr. JAVITS. That is correct.

Mr. ROBERT C. BYRD. He may be permitted to modify his amendment today if he so wishes.

Mr. MCCLURE. Mr. President, reserving the right to object, and I shall not object, there will be no motion to table the motion to reconsider but that waiver possibility of the motion to table does not extend to the possibility if the Metzenbaum amendment is offered. Is that correct?

Mr. ROBERT C. BYRD. The Senator is correct.

The PRESIDING OFFICER. Without objection, it is so ordered.

The text of the unanimous-consent agreement pertaining to the procedure on Thursday is as follows:

Ordered, That the Senate resume consideration of H.R. 4930 (Order No. 380), an act making appropriations for the Department of the Interior and related agencies for the fiscal year ending Sept. 30, 1980, and for other purposes, at 12:00 o'clock noon on Thursday, October 18, 1979, at which time no further points of order, debate, motions or amendments with respect to the bill shall be in order (except a motion to reconsider the vote by which an amendment by the Senator from New York (Mr. JAVITS) was agreed to, on which there shall be 10 minutes debate, to be equally divided and controlled by the Senator from New York (Mr. JAVITS) and the manager of the bill, the Senator from Kentucky (Mr. HUDDLESTON); an amendment by the Senator from Ohio (Mr. METZENBAUM), to be offered if on reconsideration the amendment by the Senator from New York is rejected, on which there shall be 40 minutes, to be equally divided and controlled by the Senator from Ohio (Mr. METZENBAUM) and the Senator from Kentucky (Mr. HUDDLESTON), with a motion to table the amendment to be in order; an amendment by the Senator from Louisiana (Mr. JOHNSTON), on which there shall be 10 minutes, to be equally divided and controlled by the Senator from Louisiana, (Mr. JOHNSTON) and the Senator from New Hampshire (Mr. DURKIN); and an amendment by the Senator from South Dakota (Mr. PRESSLER), on which there shall be 20 minutes, to be equally divided and controlled by the Senator from South Dakota (Mr. PRESSLER) and the Senator from Kentucky (Mr. HUDDLESTON)).

Ordered further, That following the disposition of the Pressler amendment, there shall be third reading of the bill, followed immediately by the vote on final passage of the bill as amended.

UP AMENDMENT NO. 651, AS MODIFIED

(Purpose: To provide energy fuel assistance funds)

Mr. JAVITS. Mr. President, I send a modification of my amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from New York (Mr. JAVITS) for himself, Mr. KENNEDY, Mr. STAFFORD, Mr. METZENBAUM, Mr. LEAHY, Mr. RIEGLE, Mr. MCGOVERN, Mr. WEICKER, Mr. DURKIN, Mr. GLENN, Mr. PELL, and Mr. MELCHER proposes an unprinted amendment numbered 651, as modified. On page 32, after line 19, insert the following:

COMMUNITY SERVICES ADMINISTRATION

For emergency fuel assistance programs administered by the Director of the Community Services Administration under section 222(a)(5) of the Economic Opportunity Act of 1964, $1,200,000,000, to be transferred to the Director of the Community Services Administration.

Mr. JAVITS. Mr. President, to maintain consistency I noticed my amendment has a redundancy.

I ask unanimous consent that the final words in the amendment "to be transferred to the Director of the Community Services Administration" may be stricken.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS Mr. President, I think I have completed all the debate that I wish to have on it.

Mr. HUDDLESTON and Mr. HATFIELD addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. HUDDLESTON. Mr. President, I simply wish to first of all commend the distinguished Senator from New York for working with the committee in the modification that he has made. I think it was demonstrated here that there is a

great deal of interest and concern in the problem that he is addressing with his amendment.

Many Senators have indicated that they wish to have a second opoprtunity to consider what might be done and what should be done to meet the serious problems that have been indicated here.

So, I think the program has now been worked out and we are on the way to a final resolution of that suggestion that has come from the Senator from New York.

Mr. JAVITS. Mr. President, do I understand, then, that this amendment is acceptable to the manager?

Mr. HUMPHREY. Mr. President, if we are about to vote, I wish to have 60 seconds.

Mr. HUDDLESTON. Mr. President, I have the floor. I was going to yield.

The PRESIDING OFFICER. The Senator from Kentucky has the floor.

Mr. HUDDLESTON. Unless there be objection, I move to set aside this amendment temporarily and proceed with the——

Mr. JAVITS. Why do we not vote on it? I am ready to yield back the remainder of my time. I wanted to yield to Senator Humphrey.

Mr. HUDDLESTON. Mr. President, it is my understanding we had an agreement to vote at 5 p.m. on the amendment.

Mr. ROBERT C. BYRD. Mr. President, I wonder if I could modify that order in the following way, that if rollcall votes are ordered that they occur at the times set forth in the order. If rollcall votes are not ordered, then the voice votes may occur at any time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HUDDLESTON. Mr. President, in response to the question of the Senator from New York, as far as this side of the aisle is concerned, the committee is prepared to accept the amendment.

Mr. RIEGLE. Mr. President, I rise in support of Senator JAVITS' amendment to provide an additional $1.2 billion for the Community Services Administration's energy assistance program.

I want to make it clear that yesterday when Senator JAVITS initially brought this matter forward I was in Lansing, Mich., conducting a Labor and Human Resources Subcommittee hearing on the impact of rising energy prices on low-income households in our State. Had I been here yesterday I would have strongly supported the amendment of the Senator from New York, an amendment which I am, incidentally, cosponsoring.

But the hearings we conducted yesterday in Michigan drove home, in very dramatic fashion, the tremendous financial pressure so many of our citizens are under due to the sharply rising costs of energy, as well as rising costs of virtually every other item.

In my State, Michigan, winter has begun. Most people have had their furnaces on now for nearly a month, and are already incurring these higher costs. It is estimated, and our hearing evidence illustrated, that the average low-income household in Michigan will be spending 50 percent of their income this year just to heat their homes, and in the coldest months of the year this figure will rise to something closer to 80 percent of a low-income family's budget.

Obviously, our senior citizens are going to be the hardest hit and, in fact, we start from the situation where 30 percent of the senior citizens in the State of Michgan already live below the poverty line.

Yesterday we also had a chance to talk with fuel oil and propane gas distributors, and we are finding that they too are being squeezed by the suppliers from which they get their fuel and, therefore, they have been pushed into a position in many instances where they have to demand cash on delivery, and if there is no cash, in turn there is no fuel. Even the largest distributors in Michigan are insisting on payment that is made within 30 days or no more supplies will be forthcoming.

As I said, many of the oil and gas jobbers have no choice in this matter because their suppliers are demanding cash on delivery.

Many of these small business persons delivering oil and propane in the outlying areas of the State themselves are faced with the possibility that they may be put out of business this winter, and in the event that happens, it is not clear how people in the outlying areas are even going to be able to be served with fuel.

Last winter, we had 23,000 households in the Detroit area alone that had their gas service terminated during the winter because they were unable to pay their bills; and another 30,000 were added to that in the spring as a result of unpaid bills that had accumulated.

The situation is far worse this winter, and I just cannot think that Congress, while we have time to deal with so many other issues, will fail to find the time to deal directly with this particular problem.

The citizens involved here are helpless victims of energy prices that are now out of control, they were not in any way responsible for the decision to decontrol prices, and they cannot nor should they be asked to bear the burden of the decision in this particular instance.

So I want to commend Senator JAVITS for his leadership, because the amendment that he proposes is the fastest and the most direct way to get this urgently needed energy assistance into the pipeline and into the hands of the people who so desperately need the help.

I am hopeful that the Senate, when we have the chance to vote on reconsideration, will choose to support the amendment because it is the only practical means at our disposal to try to respond in a serious way to a problem that is threatening the lives of people not just in the northern regions of our country but all across the country.

When added to the $250 million already approved for energy assistance in the Labor-HEW conference report, it would make $1.45 billion available for this winter. We cannot afford to wait for a supplemental appropriation or for more authorizing legislation. We have an opportunity to make this money available now. Sufficient authorization already exists for the Community Services Administration to spend this money to aid low-income Americans.

If low-income citizens die this winter because they have no money to heat their homes, it will be because Congress was asleep when the time to act was upon it. I urge my colleagues to join in supporting the Javits amendment.

● Mr. KENNEDY. Mr. President, this amendment I am supporting with Senator JAVITS and others is a simple matter of strict necessity. The Interior Committee has correctly established that the strategic petroleum reserve program is unfortunately stalled. The administration is reluctant to purchase more oil at this time at spot market prices, and therefore there are substantial unexpended funds in this program. Of that unexpended amount, the committee bill transfers $1.5 billion into an account that totals $20 billion for synthetic fuels.

Mr. President, there should be absolutely no argument whatever that as between the long-term supply option of synfuels, and an immediate crisis for our most needy families, that the low-income assistance this winter must take precedence. My fellow Senators need only call their Governor's office to get a sense of the alarm and frustration that is growing over the impact of soaring prices on our constituents.

Our amendment seeks to reprogram only $1.35 billion for the purpose of aiding low-income families this winter. Together with the $250 million we have already approved in the Labor-HEW appropriations bill, a total of $1.6 billion will thus be available as early as is legislatively possible this winter.

CSA has all necessary authority to spend this appropriation in a manner that is consistent with our intention here today.

Mr. President, this would still leave $18.65 billion in the synfuels account—an ample amount for a program whose outlines are not yet settled.

I urge my colleagues to support this amendment.●

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. HUMPHREY. Mr. President, I supported the chairman of the Budget Committee last night in opposing the amendment that my colleague from New York put forth because I believe that the Senate must get its financial affairs in order. The Senate must act responsibly.

I do not want anyone to misinterpret my support of the chairman of the Budget Committee last night. I support an emergency fuel assistance program. As the Senators in this Chamber know, it is already cold in New Hampshire.

I held a hearing, sanctioned by the Senate Labor and Human Resources Committee, in Concord, N.H., last Saturday, and I know full well that my constituents want this program. I want it. My heart is in it, and I am going to vote for a fuel assistance program. But I must say with all respect to my colleague from New York that I think it is unfortunate

that we are being asked once again to vote on this matter before the Budget Committee conference has acted, giving us some indication of what is available in the way of funds.

I thank the Chair.

Mr. ROBERT C. BYRD. Mr. President, is there any amendment pending to my amendment at the present time?

The PRESIDING OFFICER. There is none.

Mr. STEVENS. The Javits amendment is pending.

Mr. JAVITS. Mr. President, I am ready to yield back my time. I ask unanimous consent that Mr. MELCHER may be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. I am ready to yield back my time if the manager of the bill is.

The PRESIDING OFFICER. Do the managers of the bill yield back their time?

Mr. HUDDLESTON. Mr. President, I yield back the remainder of my time.

Mr. STEVENS. All time is yielded back, Mr. President.

Mr. ROBERT C. BYRD. Mr. President, I wish to express my support for the amendment also.

Mr. STEVENS. Mr. President, having voted against it yesterday, I also express my support of this amendment. It is a modified version of the one I voted against yesterday.

Mr. McCLURE. Vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New York. (Putting the question.) No "nays" being heard, the "ayes" have it, and the amendment is agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask for the yeas and nays on final passage of the bill for next Thursday.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

UP AMENDMENT NO. 652

(Purpose: to provide funding for enzymatic hydrolysis)

Mr. HATFIELD. Mr. President, I send to the desk an amendment on behalf of Senator TSONGAS of Massachusetts and myself and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Oregon (Mr. HATFIELD), for himself and Mr. TSONGAS, proposes an unprinted amendment numbered 652.

Mr. HATFIELD. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 41, line 18, strike "$692,502,000" and insert in lieu thereof "$693,402,000."

On page 42, line 22, add the following last sentence: "Provided further that of the total amount appropriated at least $1,400,000 be available for enzymatic hydrolysis research, development and demonstration for alcohol production."

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

The PRESIDING OFFICER. The Chair informs the Senator from Oregon that an amendment to the bill is already before the Senate.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent, and this is why I am asking the Senator to yield, that my amendment be temporarily laid aside and that the Senator from Oregon be allowed to proceed with his amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATFIELD. I thank the Senator from West Virginia for providing that opportunity.

Mr. President, I yield to the Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished Senator from Oregon.

TIME LIMITATION AGREEMENT

I ask unanimous consent that on an amendment by Mr. LEVIN there be a 20-minute time limitation to be equally divided in accordance with the usual form.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATFIELD. Mr. President, the amendment that Senator TSONGAS of Massachusetts and I offer today is for the purpose of maintaining the research team at the U.S. Army-Natick Laboratories Facility, which is funded jointly by the Department of Energy and the Department of Defense. This is a research team that has been involved in the area of enzymatic hydrolysis for a combined total of 38 years work experience. It was the first laboratory to identify the fungal enzyme complex which hydrolyzes cellulose to glucose. It is continuing an active research program to both improve enzyme production by fungus mutation and develop basic knowledge concerning the three-enzyme system necessary to convert cellulose to glucose.

The need to conduct research and develop improved technology for conversion of cellulosic wastes to sugar is an essential element of the Nation's efforts to expand alcohol fuel production. The potential for conversion of cellulosic wastes is staggering considering the availability of millions of tons of agricultural and forest residues that are available annually. Technical development of the processes in this field are expected to lead to expanded capital investments and commercialization within 5 to 10 years.

This is an area of particular concern to me, being from the Northwest, because of the vast amounts of available forest wastes and residues. These residues are not yet being effectively utilized for alcohol fuels production. The development of an enzymatic hydrolysis to convert these wastes would provide an abundance of alcohol fuels to the Northwest and other regions where an abundance of forest wastes and residues are currently available.

My particular concerns with the Army-Natick facility are that it represents the only facility that is outside of a university atmosphere and that it is solely oriented to solving problems associated with the enzymatic hydrolysis process. This facility is threatened with extinction, which would mean the loss of 38 valuable years of work experience, because the Defense Department has determined that alcohol fuels are not feasible at this time for its vehicles. In order to maintain this facility as the only non-university lab involved in enzymatic hydrolysis and to provide for the continued excellence that has been demonstrated by this work team in the past, it is important to approve this increase of $900,000 to provide funding for the research team.

In closing, I wish to quote the National Academy of Sciences Committee on Pollution Abatement and Resources Recovery Periodic Report No. 96, in which the work of the facility is described:

The NARADCOM program on enzymatic conversion of cellulosic wastes fills a vital niche in the national effort to develop alternative energy sources. Enzymatic conversion of naturally occurring cellulosic materials to glucose, a key step in the technology for producing liquid fuels from biomass, has been the focus of the NARADCOM effort. No other group in the United States, and probably no other group in the world, has achieved a comparable level of competence and recognition in this area. The Committee therefore believes that the NARADCOM program represents a national resource of great value and that its continuation, in a healthy and productive mode, is essential.

Mr. President, I wish to simply conclude by saying that this is basically an attempt to keep this team together by keeping the present level of funding, so the amendment is a matter of trying to add $900,000 to maintain that level of operation that is now in place.

I think this is one of those unique places where we have an opportunity to pursue research that can be very helpful in the field of developing alternative fuels and energy, and it is an important issue not only to the people of Massachusetts but we certainly have potential application of this technology in the northwestern part of the United States as well.

So I am happy to offer this at the request of Congresswoman MARGARET HECKLER, who has been battling for this particular matter over on the House side, and I am happy to yield to the distinguished Senator from Massachusetts (Mr. TSONGAS).

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. TSONGAS. Mr. President, I thank the Senator for yielding.

There was testimony before the Energy Committee on just exactly what the situation was with respect to solid waste. It was quite clear after that that it is going to be instrumental in whatever the United States has to do insofar as the problem of energy is concerned and that is to convert its solid wastes into renewable sources of energy.

I find it ironic that just as we pump $20 billion into a synthetic fuels program that, at the same time, we would take a step that would reduce the capability of providing additional energy, which is an

important issue, but resulting in the disposal of solid wastes.

I would like to commend the Senator from Oregon for understanding the problem and being sensitive to it, and I hope the amendment will pass not only obviously because of the impact it would have in Massachusetts but literally every community in this country which has a solid waste problem or will have, in every community that has an energy problem. This is a happy coincidence of technology and capability for the purpose of solving a very present problem, and I thank the Senator from Oregon for his help in this amendment.

Mr. HATFIELD. Mr. President, I ask unanimous consent that the Senator from New Hampshire (Mr. DURKIN) be listed as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HUDDLESTON. Mr. President, the committee is certainly not unsympathetic to the objectives of the amendment as far as the research project is concerned.

We had no opportunity to consider this during our markup. We understand that this program or this type program is funded out of two accounts, the urban waste, which we do have in our bill, and the biomass research, which is in another bill. We have a total of $10 million in the bill we are considering here today. The biomass funding is in the neighborhood of $50 million.

So we have some concern that this entire program should be borne out of this account, No. 1; and, second, we would like to have justification from the Department; a request indicating the need and desirability for this particular program.

I suggest, of course, that this can be handled through reprograming. It can be handled through additional requests that would come to us for budget authorization and budget funding.

So I hope we will not burden the Interior Subcommittee's appropriations with this entire amount of some $900,000 at this time.

I also seem to have discovered here a technical problem that the Senator may be referring to the wrong line in the bill, and I suggest the absence of a quorum to look at the amendment.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HATFIELD. Mr. Persident, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATFIELD. Mr. President, I ask unanimous consent to make some technical modifications to Senator TSONGAS' and my amendment relating to the page numbers of the bill to which this amendment would apply.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment, as modified, is as follows:

On page 41, line 18, strike "$692,502,000" and insert in lieu thereof "$693,402,000."

On page 42, line 22, add the following last sentence: "*Provided further*, That of the total amount appropriated at least $1,400,000 be available for enzymatic hydrolysis research, development and demonstration for alcohol production."

Mr. HATFIELD. Mr. President, I ask the manager of the bill if he has a proposal to offer, in lieu of the amendment we are attempting to provide a remedy for here today.

Mr. HUDDLESTON. Mr. President, I will say again to the Senator from Oregon that we are sympathetic to the project that his amendment addresses. We think that we ought to make it clear to the Department of Energy that we would expect a reprograming request be made for this project from their biomass funding.

The distinguished Senator from Oregon is the ranking member of the subcommittee which handles that legislation, and I am sure his indication of support will be given thorough consideration.

With such a request forthcoming, we would be prepared to move, insofar as it comes within our jurisdiction, very rapidly to see that this project does continue.

Mr. HATFIELD. Do I correctly understand, then, Mr. President, that the chairman of the subcommittee and floor manager of the bill now has given full support to the proposition that the legislative record should clearly indicate that it is the desire and expectation on the part of the Senate that within the $50 million fund in the biomass section of the Department of Energy's budget, that there should be reprograming of that to cover this particular need for the $900,000 represented in our amendment?

Mr. HUDDLESTON. The Senator is correct.

Mr. HATFIELD. Mr. President, I yield to the Senator from Massachusetts for any comments he may have based upon that issue, with this colloquy to be considered as important legislative history; as much so as the report language, as far as the Department of Energy getting the message and the importance of that message is concerned. With that assurance, I would be happy to withdraw the amendment. I yield at this time to the Senator from Massachusetts for his comments.

Mr. TSONGAS. Mr. President, I thank the Senator from Kentucky for insuring the continuation of the capacity that would have been lost in the absence of his agreement.

I just want to make it clear that we anticipate and expect that the Department of Energy will read this record and will proceed apace in regard to the problem in terms of reprograming rather than returning the matter to the floor of the Senate in terms of legislative remedy. I thank the Senator from Kentucky for his support of our position, and the Senator from Oregon. I would like to acknowledge the presence of Representative MARGARET HECKLER, in whose district this project is located and who was instrumental in having the people testify before the Energy Committee, so that Senators were aware of the problem beyond the Massachusetts delegation.

Mr. HATFIELD. Mr. President, on the basis of the comments of the Senator from Massachusetts and the manager of the bill pending on the floor, I again thank him for his assurances and his support, and withdraw the amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

Mr. HUDDLESTON. Mr. President, I thank the Senator from Oregon and the Senator from Massachusetts. I yield to the Senator from Nebraska.

Mr. ZORINSKY. Mr. President, in 1976 the Bureau of Indian Affairs began to phase out the Johnson-O'Malley basic support program for Indian schools. This program supplied funding for the day-to-day operations of some 27 Indian schools located in five Plains and Southwest States. During the past 3 years this funding has been gradually decreased, and in most cases adequately replaced by funds under the Department of Health, Education, and Welfare's impact aid program.

However, at least two schools, the Santee and Macy schools in Nebraska, will not receive sufficient funds for operation under the impact aid program this year. In fact, since even the insufficient impact aid money may not become available until the spring of next year, the schools will run completely out of funds, and will close their doors to their students this November.

The two schools, existing on a barebones budget already, need an additional $200,000 to keep operating this year. It means a great deal to the 400 students of the Macy and Santee schools. It means that their schools will be able to pay the light bills, that they can pay their teachers, and that they can continue to offer their students an opportunity to learn.

Last year Congress passed the Education Amendments of 1978, making clear the intent of Congress to continue basic support funding of Indian schools. Section 1103(B) of that law authorizes funding for public schools educating Indian students in cases where the total sum of Federal, State, and local funds are insufficient to bring the education of the enrolled Indian students to a level equal to the level of education provided non-Indian students, where the absence of such support would result in the closing of schools or the reduction in quality of the education program afforded Indian students attending public schools.

If the Santee and Macy schools do not receive an additional $200,000 in basic support moneys, they will close within the year.

It is my understanding that the H.R. 4930 includes sufficient funding for the Johnson-O'Malley program to provide the necessary support for these two schools. My colleague from Nebraska, Senator EXON, and I request that $200,000 of these funds be specifically earmarked for the operational support of the Santee and Macy schools.

A recent General Accounting Office report cites these two schools as ones

which will be harmed by the cutoff of basic operational support money. The GAO audit shows that the schools will not have enough money to remain open this year without the Johnson-O'Malley funds.

That same report raises some important questions about the phasing out of the program, and suggests that clarification of congressional intent concerning the program be sought.

I would submit, however, that there is no need for clarification of this one point—Congress does not intend for schools to shut their doors.

There is sufficient money within available funds to prevent such an occurrence. I ask my colleague on the Appropriations Committee to give Senator EXON and me his assurance that language earmarking these funds for the two Indian schools will be included in the conference report.

I hope that our esteemed colleague from Kentucky can give us that assurance.

Mr. HUDDLESTON. Mr. President, as the Senator knows, we did add $1.2 million to this fund to correct a deficiency, a BIA oversight on the Johnson-O'Malley program. It is our expectation that these schools will be properly funded within the available funds, and that they will not have to close. We state that in our report language, and will deal with it in the conference, to make sure that we are very explicit concerning our intention that these schools will receive proper funding.

Mr. ZORINSKY. I thank the Senator from Kentucky. I commend him on his able management of the bill.

Mr. HUDDLESTON. I thank the Senator from Nebraska.

Mr. President, I see no other Senators on the floor at this particular point who may have amendments. I would just say to those who may be listening in that we are moving along on this bill. I am very hopeful that we can conclude it tonight, with the exception of the special order for the reconsideration vote on the Javits amendment. So if there are those who have amendments and want to have them considered, I would hope they would come to the floor as soon as possible.

At this time, Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HUDDLESTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 653

(Purpose: Technical amendment)

Mr. HUDDLESTON. Mr. President, there is a technical amendment from the committee at the desk. I call it up and ask for its consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Kentucky (Mr. HUDDLESTON) proposes an unprinted amendment numbered 653:

On page 14, line 13, strike the word "Capitalized".

Mr. HUDDLESTON. Mr. President, that is the amendment. It is very technical. An unnecessary word is being deleted. This has, of course, been cleared on both sides of the aisle, and I move its adoption.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Kentucky.

The amendment (UP No. 653) was agreed to.

Mr. HUDDLESTON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistance legislative clerk proceeded to call the roll.

Mr. HUDDLESTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HUDDLESTON. Mr. President, I yield to the distinguished Senator from West Virginia.

Mr. RANDOLPH. Mr. President, I wish to call the attention of my colleague, who is ably handling the present important measure, to the fact that there seems to be some breakthrough, in connection with certain public utilities who have been designing plants to use nuclear power. Some now seem ready to look toward coal. Has the Senator noticed what the Virginia Electric & Power Co., did yesterday. This utility is now studying coal for replacement of units three and four of their North Anna powerplant now designed to use nuclear fuel.

Mr. HUDDLESTON. The Senator is correct. I did note that. I think it is an encouraging sign because it demonstrates that with the environmental restraints and with the clean air requirements coal is still a viable fuel for the generation of electricity.

I might point out, as the Senator is aware, that the Department of Energy, in my judgment, is now taking an aggressive position in the conversion of oil and gas-fired burners to coal. They have issued six conversion orders. One has been received voluntarily. So there are seven plants now which are in the process of being converted from oil and natural gas to coal.

This is not our only way but our most immediate way to reduce the amount of oil when we are using it. When we reduce the amount of oil, we are reducing the amount of imported oil. That is significant.

Mr. RANDOLPH. The comment of my colleague from Kentucky is certainly to the point. The Senator will remember that a few days ago during debate on the Energy Mobilization Board I had the opportunity to join with the Senator in the presentation of an amendment which went to the very heart of this immediate problem. That amendment assured conversion to coal not 5 years from now, not 3 years from now, but beginning now.

I feel Secretary Duncan, the new head of the Energy Department, has given us a new promise as a new Secretary, to commit himself to act now with regard to coal conversion and replacement. Is that correct?

Mr. HUDDLESTON. That is correct, and it is very encouraging.

Mr. RANDOLPH. It is very encouraging.

Mr. President, I submit to my colleagues at this point for their consideration an article which appeared in the Metro section of the Washington Post this morning. I believe it shows the utility industries' new found confidence in direct coal utilization. Stanley Ragone, president of Vepco has directed that a study as I mentioned earlier be conducted to examine the economic advantage of converting two partially completed nuclear powerplants to coal.

The study allegedly is the result of design problems with the nuclear plants, however the impact of their decisions is the recognition, by at least one utility, that the direct burning of coal—with full environmental safeguards—is the national energy option which will assure lower energy costs to consumers while simultaneously lessening our dependence on oil. I ask that the Washington Post article explaining the study, be printed as part of the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Oct. 16, 1979]

VEPCO TO STUDY SWITCHING 2 NUCLEAR POWER PLANTS TO COAL—"GROWING UNCERTAINTIES" BEHIND UTILITY'S DECISION

(By Jerry Knight)

After a decade of promising its customers that nuclear power would give them lower electric rates, Virginia Electric and Power Co. yesterday announced it is considering converting two partially built nuclear plants to coal.

Vepco has already spent nearly half a billion dollars on the two plants, but may have to change them because of "growing uncertainties" about nuclear power, Vepco President Stanley Ragone said at a Richmond press conference.

No other utility company has ever switched a plant from nuclear to coal power at such an advanced stage of construction, nuclear industry sources said.

Although Ragone insisted Vepco has not abandoned its decade-long commitment to nuclear energy, the announcement was seen as another major setback for the nuclear power industry, already reeling from the Three Mile Island accident.

The two nuclear plants Vepco is considering converting to coal are located at North Anna, 70 miles south of Washington. Both were designed by Babcock & Wilcox, the same company that designed the Three Mile Island plant near Harrisburg, Pa.

A federal study under way of the Three Mile Island accident last March could force Babcock & Wilcox to make major changes in the design of its plants.

That problem, the soaring cost of building nuclear plants and growing apprehension about the federal government's commitment to nuclear power are the main reasons Vepco plans to study switching to coal, Ragone said.

"It's pretty obvious the government right now is not content with the nuclear power

option," Ragone said, adding, "There is no doubt in my mind that with a proper national policy, nuclear is the way to go."

The study, expected to take six to 12 months, will look at North Anna units 3 and 4, a pair of 938,000 kilowatt power plants. They are part of a complex that includes two nuclear plants and was planned to have four.

Virtually all of the $485 million worth of work done so far on North Anna 3 and 4 will be usable if the plants are switched to coal, Ragone added.

Ragone said Vepco does not yet know what effect switching the plants to coal will have on electric bills of Virginia residents. "That's what the study will try to determine," he said.

Starting this month, Virginia consumers are paying an average of $5.50 a month more on their electric bills because of Vepco's problems with its nuclear power plants.

The first unit at North Anna is shut down for refueling, a three-month job that started Sept. 25.

North Anna, recently constructed, has never started up because of a Nuclear Regulatory Commission moratorium on licensing new nuclear plants. North Anna 1 and 2 were built by Westinghouse, not Babcock & Wilcox, but new nuclear plants have been held up by the Three Mile Island incident.

At Vepco's other nuclear power complex, in Surry, Va., 130 miles south of Washington, one plant is shut down for piping repairs and another is idle while a new steam generator is being installed. It is unclear when either will resume operation.

Without its nuclear plants to generate power, Vepco has been forced to make electricity by burning coal and oil—both of which cost more than nuclear fuel—and to buy electricity from other utilities, also at a higher cost than nuclear power.

The Virginia State Corporation Commission last month agreed to let Vepco raise electric bills by $37 million over the next three months to pay for the higher power costs. Vepco has already warned that it may have to ask for another increase in bills starting in January if its nuclear plants are not in operation by then.

If Vepco backs off from completing the North Anna atomic plants, it will be the second time the utility company has abandoned a pair of nuclear projects.

The Surry complex originally was to have four units, but the third and fourth plants were scrapped in 1977 after Vepco had invested $164.5 million in them. That cost was tacked on to consumer's electric bills and spread over a 10-year period, until 1987.

Vepco abandoned the Surry 3 and 4 units because declining demand for electric power made them unnecessary.

For the same reason, Vepco is studying selling part of the $1 billion project it is building in Bath County to store power for peak periods of use, Ragone disclosed yesterday.

Vepco has offered to sell part of the project to American Electric Power Co., and to Allegheny Power System, Ragone said.

Scheduled for completion in 1982, the Bath County project is called a pumped storage facility and has two large lakes, one several hundred feet above the other. Water flowing from the upper lake to the lower one will run turbines to provide electricity during periods of heavy use.

At night—when Vepco produces more electricity than its customers consume—the excess power will be used to pump water back into the upper lake, so it can come down again the next day.

The Bath County project—like the defunct Surry units 3 and 4—was planned several years ago, when the demand for power by Vepco's customers was growing at a rate of 10 percent per year.

Vepco now is projecting a 4 percent growth rate in maximum power consumption. That figure may be reduced again when a new forecast of electrical demand is completed in December, Vepco sources said yesterday.

The sources said, however, that the North Anna plants will still be needed and there are no plans to abandon the project. Work on North Anna 3 and 4 started in 1971 and has been delayed several times. Completion is expected sometime in the early 1980's.

Switching North Anna 3 and 4 from nuclear power to coal requires replacing the "burner" that heats water to make steam to power a turbine generator. The turbine is the same, regardless of its source of fuel.

While coal burning plants are generally cheaper to build than nuclear plants, coal besides being several times more expensive than the uranium fuel for a nuclear plant, requires expensive pollution control equipment.

Vepco says it costs 1.21 cents to produce a kilowatt-hour of electricity from its nuclear plants, compared to 2.27 cents from coal and 2.57 cents from oil. Both fuel and plant construction costs are included in those figures.

Last year Vepco produced about 35 percent of its power from nuclear plants, 26 percent from coal and 36 percent from oil. The remainder came from hydroelectric power or was purchased from other companies.

Mr. RANDOLPH. Mr. President, present law provides the means to accomplish short-term expansion of coal utilization but many of these initiatives are not being vigorously pursued. Information gathered by the President's Coal Commission stresses the fact that enough oil-fired boilers can be converted to coal in the short term to save as much as 724,000 barrels of oil per day. Another 900,000 barrels per day could be saved in 5 years by accelerating new, coal-fired-boiler construction. OMB recently indicated to me personally that if the President's windfall profits tax approached the $142 billion requested, a major portion of that amount would be used for this construction effort estimated to be around $50 billion.

Conversion of 117 coal-capable utility boilers must be started immediately. I feel it can be done in an environmentally safe manner. I am concerned, however, that action to convert oil-burning, coal-capable utility boilers to coal may be stalemated pending the passage and implementation of the President's energy proposals. Continuing emphasis must be focused on moving quickly to facilitate and encourage conversions, and cannot be held hostage to the longer range development of synfuels, or passage of a windfall-profits tax.

I submit, it makes no sense for the Congress and the administration to embark on massive, new projects costing billions of tax dollars without implementing existing programs.

This is not to say that nothing is being done. I know, for example, that 74 of 76 permit applications for new, coal-fired powerplants have been granted this year. These plants represent 114 million tons of new utility coal demand—a 23-percent increase over 1978.

I know the Environmental Protection Agency has approved a majority of the Department of Energy's oil-to-coal switching requests for powerplants—100 of about 140. One plant in Massachusetts alone, Brayton Point, will displace 17 percent of New England's residual oil with coal. But, on what specific date will this plant be actually burning coal?

I know the Department of Energy is working on an agreement with the Environmental Protection Agency so environmental requirements can be established for new energy technologies so that demonstration facilities will not face a "moving target" problem with various environmental standards.

I know that to encourage the use of synfuels in powerplants, the Environmental Protection Agency established less stringent new source performance standards for the initial, full-scale, synfuels demonstration units. This will provide an opportunity to work out any preliminary design problems.

And, I also know that the President has directed the Regulatory Council to begin an effort to eliminate overlapping and inconsistent Federal and State regulations affecting coal production and coal use.

But even with all this apparent affirmative, positive activity no actual conversions seem to be taking place. I am still asking the same questions I have been asking since Congress enacted the Energy Supply and Environmental Coordination Act in June 1974.

Why have we not seen a significant increase in direct coal utilization?

Why do we continue to burn oil and gas under stationary boilers when oil imports are disrupting our economy and are an important source of inflation?

Why do we continue to burn oil and gas under stationary boilers when oil dependence threatens our Nation's security?

Why do we continue to burn oil and gas amid a glut of readily available coal and thousands of unemployed miners?

When coal costs one-third to one-half the cost of oil, why do electric utilities continue their dependence on costly imported oil at the rate of millions of barrels per day?

Why have our Government agencies seemingly been unable to take account of the full array to technical and economic considerations, to assess comparative costs, technical feasibility and capital requirements for a meaningful program of direct coal burning?

Mr. President. The time for action on conversion of coal-capable utility boilers is now. We must act aggressively and quickly to pursue this course of action.

Mr. HUDDLESTON. I might say that the Senator (Mr. RANDOLPH) and I cosponsored an amendment which gives some additional funding for that very specific purpose, so that they can double the number of conversion orders or prohibition orders, as they are referred to, those prohibiting the use of oil in these large burners. They can double that number within the next fiscal year, and that will make a very significant contribution to the reduction of our usage of oil.

Mr. RANDOLPH. It releases petroleum for other uses, other than in the boilers in electric generating plants, is that correct?

Mr. HUDDLESTON. It is correct.

Mr. RANDOLPH. That is not a small

sum of petroleum. It is a very substantial sum.

We, again, know of at least 117 of these coal-capable boilers where conversions can be made.

Mr. HUDDLESTON. That is correct. That is a figure which has been determined by the President's Coal Commission, of which the Senator from West Virginia, the Senator from Illinois (Mr. PERCY), and I are members. They have analyzed all of the oil-burning facilities in the country and determined that 117 of them could be switched to coal. That would make a very substantial contribution to the reduction of our oil consumption.

Mr. RANDOLPH. I have this final thought: We do realize that there are certain environmental safeguards which must be exercised, in connection with the burning of coal.

I think the Senator from Kentucky was impressed last Thursday when several Senators from coal-producing States had the opportunity to counsel with Secretary Duncan and also with Administrator Costle, of the Environmental Protection Agency.

I personally was impressed with their desire to work together to bring about a speedier conversion. Is that your feeling?

Mr. HUDDLESTON. That is correct. I might say that the cooperation between those two Departments, the Department of Energy and the Environmental Protection Agency, is absolutely essential if we are to move forward as we should move in the matter of utilizing coal and meeting our energy needs in a number of other ways. That cooperation has not always been satisfactory, I would say, but the indications are that now they are on the right track. I think we can expect that they will work together and that we can demonstrate that the greater utilization of coal, certainly to the extent that we are talking about in converting these plants which are now using oil, will not do any violence to the environmental standards we have set for this country, the clean air standards.

They can be accommodated. Coal can be burned as cleanly as oil. There are some exciting research projects underway which make coal even a cleaner burning fuel. One SRC project which is scheduled for West Virginia and another one scheduled for Kentucky will take all the pollutants out of coal and make it a clean burning fuel, either in a solid or a liquid state. The future seems exceptionally good and bright.

The important thing is that we not neglect what can be done now with these conversions. I think the sooner we can get on with that project, and the more successful we are with it, the better we will be able to withstand those shortages of oil that are undoubtedly going to come again, whether it is in a reduction of imports available to us, whether it is our own restraint on imports, which the President already indicated he intends to apply, or whether it is the increased demand in this country which will be bumping against the limits which are going to be set. We need to divert every barrel of oil we can from the large oil burning utilities and other industrial boilers and use the one energy supply that we have in abundance, coal.

Mr. RANDOLPH. The Senator is very knowledgeable. I will not continue this colloquy except to say that we need, from time to time in this body, to reinforce the need for action in connection with coal conversion, coal-derived liquids and gas from synthetic liquid fuel programs, the use of the shales in the Rocky Mountain States, and other areas where enhanced recovery of oil and gas can be realized.

Mr. HUDDLESTON. The Senator is correct. Shale, gasohol, and a dozen different processes, none of which in themselves can solve all of our problems, but in combination will lead us to energy independence.

We had an inventor before the committee that I was chairing, dealing in the question of new, innovative approaches to the energy problem. He made that statement. He said one of our problems is that we keep looking for that one grandiose, all-encompassing program that, in one fell swoop, will solve our energy crisis. He said that is not likely to happen. I think he is right. He said it would take a thousand new ideas, a thousand new processes before we can really get to the place where we are self-sufficient, totally independent from outside influences in meeting our energy needs. I think he is correct.

That is why, and I know the Senator from West Virginia agrees with me, while we are much concerned about the utilization of coal, we are not any less concerned about all the other energy developments and all the other processes that will produce additional energy for this country and decrease our dependence on foreign oil.

Mr. RANDOLPH. Mr. President, I want to add that I was very impressed with the presentation by Dr. Armand Hammer, when he counseled with the questioners on Meet the Press this past Sunday. I find that here is a man 81 years young, who is thinking in terms of the future of this country. I commend the creativity, followthrough, and insight which were expressed by him and, hopefully, will be expressed by the Senate, the Congress, and the administration on every occasion.

I thank the Senator very much.

Mr. HUDDLESTON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LEVIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEVIN. Mr. President, I have a question of the manager of the bill and I am wondering if he would be so kind as to comment on it.

Am I correct that, except for the $2.2 billion, there is no specified time period over which we are committed to appropriate the approximately $19 billion being placed in the energy security reserve by this amendment?

Mr. HUDDLESTON. The Senator is correct. There would be no time requirement.

Mr. LEVIN. I appreciate that, Mr. President. I thank the Senator from Kentucky.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HUDDLESTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HUDDLESTON. Mr. President, I rise simply to advise my colleagues that we are operating under an order that will call for a vote to begin on the pending amendments at 5 o'clock. That is an hour and a half from now.

Consequently, without subsequent unanimous-consent action, any consideration of amendments will come to a conclusion at that 5 o'clock time.

We are aware of two or three amendments that have been suggested by Members. I am not certain they intend to proceed with them. But it would be very helpful if they could advise us as to whether or not they intend to and, if they do, take into account the fact that the time is running out.

We have an hour and a half to go. We have 30 minutes of that time already set aside by special order for Senator JOHNSTON and Senator DURKIN on an amendment that will be proposed. So that leaves only an hour to handle other amendments that might be contemplated.

I suggest that staff that might be present, or anyone who would want to advise the Senators that the clock is running and that if they expect consideration of their amendments this is the time to do it.

Does the Senator from Delaware wish time at this point?

Mr. ROTH. Yes.

I apologize to the manager of the bill. Unfortunately, we have committees meeting at the same time, at which critical decisions are being made on the windfall profits tax.

It is a little difficult to be in two places at once.

UP AMENDMENT NO. 654

(Purpose: To reduce total budget authority provided for the adminstrative and regulatory costs of the Department of Energy in this Act by $103 million, excepting alternative fuels production)

Mr. ROTH. Mr. President, I send an unprinted amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Delaware (Mr. ROTH) proposes an unprinted amendment numbered 654.

Mr. ROTH. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 58, after line 8, insert the following:

SEC. 310. Notwithstanding any other provision in this Act, the total amount of budget authority provided in this Act for the Department of Energy, excluding that for Alternative Fuels Production, is hereby reduced in the amount of $103,000,000: Provided, That Congress intends that this reduction shall be achieved by the improvement of program and regulatory efficiency and administrative productivity: Provided further, That this section shall not be construed to change any law authorizing appropriations or other budget authority in this Act.

Mr. ROTH. Mr. President, my amendment provides a 5-percent efficiency cut in the administrative and regulatory costs of the Department of Energy in this bill. This will save the taxpayers $103 million and stimulate needed management reforms at the Department of Energy. Our amendment does not cut the $20 billion in this bill earmarked for alternative fuels production.

Mr. President, if we are to achieve a national energy policy and reduce inflation, we in Congress must begin by conserving—by conserving tax dollars and stopping the inflationary waste and mismanagement at the Department of Energy.

This bill contains a budget-busting 20-percent increase for DOE over last year—and that does not even include the alternative fuels production or the strategic petroleum reserve. Cutting $100 million would still leave DOE with a $250 million or 16-percent increase—double what the working men and women of this country are permitted under President Carter's wage and price guidelines.

Our amendment does not cut specific programs, projects or energy "hardware,"—such as plant and capital equipment—but instead requires reductions in administrative and regulatory costs only, in order to improve program efficiency and administrative productivity within DOE.

Federal regulation, whether of energy projects or whatever, is strangling the growth and productivity of our Nation.

As the distinguished managers of this bill have pointed out before, for example, a coal mine operator must obtain permits under at least 30 separate Federal regulations—including DOE regulations—before he can get the first shovel of coal out of the ground.

For another example, anyone who wants to explore the Outer Continental Shelf for oil and gas has to fight through a regulatory maze involving 4 different departments—including DOE—and at least 15 different sub-Cabinet and independent agencies.

In addition, I am sure my colleagues are aware of the redtape and regulatory delays that accompany both the coal utility conversion program at DOE and DOE's fossil fuel demonstration projects. I think no more graphic example of what DOE is doing to the independent businessman can be provided than an article last August 24 in the Washington Post, with the headline "Oil Firm President Says Energy Department is Ruining Him, and It Agrees." Let me read an excerpt from it for the benefit of my colleagues:

The vice president of a Kansas oil company that operates 225 independent gasoline stations in 27 states came to Washington yesterday to proclaim that Energy Department price and allocation regulations are putting him out of business.

The Energy Department agreed.

I'm in Washington because my company is being destroyed by the Department of Energy, said R. J. Gaffney, vice president of Highway Oil Inc., of Topeka.

He's right, said a top official in the Energy Department, asking not to be identified because of his agency's mounting image problems. He has given an accurate description of what DOE regulations are doing to some people in this industry.

Let me suggest there are many areas in the present bill where regulatory costs can be reduced and program efficiency increased at DOE.

First, let us look at the Economic Regulatory Administration, this bill contains an incredible—and I mean incredible—45-percent increase in funding for the Economic Regulatory Administration. This is $45 million over 1979, and $19 million over the House allowance. Included are a 49-percent increase in administrative costs, a 67-percent increase in fuels regulation, and a 44-percent increase for the development of new regulations alone.

Another area where efficiency cuts are desperately needed in order to achieve program goals is the weatherization program. This program is running a full 2½ years behind schedule. As the committee report itself points out, and I quote:

A total of $290 million has been appropriated over the last 3 years for this program, enough to weatherize approximately 753,000 homes by the Department's estimate. Through July of this year less than $40 million has been outlayed and only 174,000 homes insulated.

In other words, Mr. President, the weatherization program has an unspent balance of over $250 million, or over $430 per family it is intended to reach. And yet, this bill funds it at the same level as last year, $199 million.

Another desperately needed conservation program at DOE, the schools and hospitals program, is almost a year behind schedule because of DOE administrative inefficiency.

In short, you might say Nero fiddled while Rome burned, but DOE is fiddling while millions freeze. DOE's fleet of gas guzzlers is still another area where reductions can be made without affecting specific programs. In fiscal 1978, DOE spent $28 million for the use of motor vehicles. According to U.S. News and World Report, the Department of Energy has used 29 percent more fuel for vehicles and equipment over the last 3 years than the agencies it was formed to replace. This record would certainly be an embarrassment for any agency. But it is inexcusable for the Department of Energy and it is a record we must not permit to continue.

We are not advocating irresponsible or precipitous elimination of any programs in this bill. I am actually urging a more reasonable level of funding—a level more consistent with the Presidents' stated goals and certainly more in keeping with those which citizens have been demanding all over the country.

The important point we must make, the clear signal we must send to DOE, is that we can accomplish a 5 percent cut by management efficiencies, by reduced regulation, and by increased administrative productivity—without hurting the many programs approved by Congress.

On the one hand, we are telling the people back home, the working people, the taxpayers, the family, because of inflation, "You have to make your dollar go further. You have to be a little more effective. You have to be a little more efficient."

On the other hand, that is all our 5-percent efficiency cut is doing here. We are putting the various departments on notice that they are just going to have to do a better job with the funds available, that they can find and correct at least 5 percent waste and fat in their budgets without destroying worthwhile programs.

As my colleague from Wisconsin has pointed out to this body, the special interests, the bureaucrats, the regulators and the big spenders come up here over and over to testify on the budget, and we never hear them urge Congress to cut, conserve and economize; it is always the same refrain—spend, spend and spend.

Well, I think it is time to send a message to DOE bureaucrats and DOE regulators who are stifling our energy production and squandering our energy conservation programs: They are going to be measured by the same productivity standards as all working Americans. The House has already sent DOE a message by abolishing their gasoline price controls and allocation regulations. I believe we should send DOE a message on fiscal responsibility and prudence. To do less would be to totally ignore the taxpayers of this country.

Mr. President, I urge my colleagues to support my 5 percent efficiency cut of DOE, and I intend to ask for the yeas and nays.

Mr. HUDDLESTON. Mr. President, we all recognize that this is a time when budget restraint is not only very desirable but also, in many ways, very necessary and that we are attempting here, through the processes of Congress, to bring under control Federal spending.

The Senate has gone on record as being in favor not only of reducing the national deficit but also of moving toward a balanced budget in the coming fiscal years. Nobody can dispute the necessity for doing everything we can to cut Federal expenditures to the barebone.

However, I think we also have to recognize that this is also a time for action, that it is necessary that we take such steps as may be necessary to address some of the major problems we have in this country. This appropriation bill that we are considering now attempts to address a good many of those problems.

Of course, many other programs are included that are of utmost importance. But all the funding that is in here has been put there only after long days of hearings, after budget requests made by the administration, after consultation

with the Departments and with other parties interested in these particular figures.

The committee, as all other committees have done, would be opposed to any kind of blanket, across-the-board reduction in the figures that are put in here.

The distinguished Senator from Delaware mentioned the area of ERA—that is the Energy Regulatory Administration, not the movement that is afoot throughout the country—where some $19 million has been added over the House figure. The reason is that budget requests totaling more than $23 million were forthcoming, too late for the House to consider. Consequently, we made the judgment that those were expenditures that should be made. We are $39 million under the fiscal year 1980 request for ERA. In all the other areas that have been brought into question, the committee has done its work, has given careful consideration to requests that have been made, and has suggested and put into the bill the figures that are here.

I could not agree more with the Senator from Delaware in his recitation of the difficulties we have imposed upon ourselves so far as Government regulation is concerned.

I attended some of the hearings and chaired some of the hearings to which he has referred, as to the testimony given by small businessmen and others and the difficult time they are having in dealing with some of the regulations, some of the paperwork and redtape that have been imposed upon them. I think we should attack this regulation and redtape in every way possible and do what we can to reduce it and to eliminate it. Certainly, there is no argument in that respect with the Senator from Delaware.

Incidentally, ERA is one agency which is supposed to be identifying those regulations that are not necessary, or not productive, and should and can be eliminated.

So, Mr. President, I expect to move to table the motion of the distinguished Senator from Delaware, if no other Senators present wish to speak with respect to it.

Does the Senator intend to ask for the yeas and nays on his amendment?

Mr. ROTH. Yes. A sufficient second is not present.

Mr. HUDDLESTON. Mr. President, a parliamentary inquiry. Does the special order under which we are operating preclude any rollcall votes before 5 o'clock?

The PRESIDING OFFICER. That is correct.

Mr. HUDDLESTON. In that case, Senator ROTH's amendment will come in order after 5 o'clock, at which time I am sure there will be an opportunity to ask for the yeas and nays, with a sufficient second.

I intend to move at that time to table the amendment.

Mr. ROTH. That is satisfactory to me. It necessarily will have to be under the unanimous-consent agreement.

I am perfectly willing to yield back the remainder of my time.

Mr. HUDDLESTON. I yield back the remainder of my time.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I yield myself 1 minute on behalf of Mr. HUDDLESTON off the bill.

THE CALENDAR

Mr. ROBERT C. BYRD. Mr. President, I see the distinguished minority leader is in the Chamber.

I ask unanimous consent that the Senate proceed to the consideration of Calendar Orders Nos. 385, 386, and 354.

Mr. BAKER. Mr. President, reserving the right to object, and I shall not object, these items are cleared on our calendar, and we have no objection to their consideration and passage.

BUDGET ACT WAIVER

The resolution (S. Res. 246) waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of H.R. 4249, was considered and agreed to, as follows:

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provision of section 402(a) of such Act are waived with respect to the consideration of H.R. 4249. Such waiver is necessary because H.R. 4249, an Act to amend title 23 of the United States Code, the Surface Transportation Assistance Act of 1978, and for other purposes, provides an additional authorization of $1,500,000 to be available until expended which was not included in the committee's submission to the Budget Committee.

Compliance with the deadlines of the Congressional Budget Act of 1974 was not possible by May 15, 1979, as the need for an additional authorization for the National Alcohol Fuels Commission established by section 170 of the Surface Transportation Assistance Act of 1978 did not come to the committee's attention until after such date.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. BAKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

BUDGET ACT WAIVER

The resolution (S. Res. 250) waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of H.R. 595, was considered and agreed to, as follows:

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of H.R. 595, a bill to authorize the appropriation of funds for the acquisition of stockpile materials and to authorize the disposal of three excess stockpile materials.

Such a waiver is necessary because section 402(a) of the Congressional Budget Act of 1974 provide that it shall not be in order in either the House of Representatives or the Senate to consider any bill or resolution which, directly or indirectly, authorizes the enactment of new budget authority for a fiscal year, unless that bill or resolution is reported in the House or the Senate, as the case may be, on or before May 15 preceding the beginning of such fiscal year.

It was impossible for the Committee on Armed Services to properly review and give adequate consideration to H.R. 595 before the May 15, 1979, deadline due to the press of other priority legislation; namely, S. 428, the annual military procurement authorization bill, and S. 1319, the military construction authorization bill. Further, the Committee on Armed Services considered and on June 6, 1979, reported H.R. 2154 which constitutes a complete revision to the Stock Piling Act requiring for the first time authorization for appropriations for stockpile acquisitions; this revision (H.R. 2154), which represents a major initiative by the legislative branch, logically required consideration and action before implementing legislation (H.R. 595) on specific commodities could be acted on.

For the foregoing reasons, pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to H.R. 595 as reported by the Committee on Armed Services.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. BAKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

STRATEGIC AND CRITICAL MATERIALS TRANSACTION AUTHORIZATION ACT OF 1979

The Senate proceeded to consider the bill (H.R. 595) to authorize the Administrator of General Services to dispose of 35,000 long tons of tin in the national and supplemental stockpiles, to provide for the deposit of moneys received from the sale of such tin, and for other purposes, which had been reported from the Committee on Armed Services with an amendment to strike all after the enacting clause and insert the following:

That this Act may be cited as the "Strategic and Critical Materials Transaction Authorization Act of 1979".

SEC. 2. There is authorized to be appropriated the sum of $237,000,000 for the acquisition of strategic and critical materials for the National Defense Stockpile established under section 3(a) of the Strategic and Critical Materials Stock Piling Act.

SEC. 3. The following materials in the quantities specified, determined to be excess to current stockpile requirements, are authorized to be disposed of from the National Defense Stockpile:

(1) tin, thirty-five thousand long tons;

(2) silver, fifteen million troy ounces; and

(3) industrial diamonds, one million five hundred thousand carats.

SEC. 4. (a) All transactions authorized by this Act shall be carried out under the provisions of the Strategic and Critical Materials Stock Piling Act.

(b) The President, on behalf of the United States, is authorized to contribute up to five thousand long tons of tin from the amount authorized to be disposed of in section 3(1) to the Tin Buffer Stock established under the Fifth International Tin Agreement. Upon the

termination of such Agreement in 1981, all proceeds generated from such contribution shall be remitted to the National Defense Stockpile Transaction Fund established under section 9 of the Strategic and Critical Materials Stock Piling Act.

● Mr. HART. Mr. President, earlier this year the Senate acted on a stockpile policy bill which set out policy and management guidelines for reshaping our national defense stockpile. This bill was signed into law by the President on July 30, 1979. It is now time to get on with specific transactions—the buying of needed materials and the selling of excess materials—to get the right materials, in the right quantity, in the right place, so that our strategic stockpiles can serve their intended purpose.

By way of background there are now 93 different materials—ranging from aluminum to zinc—that have been identified as strategic and critical materials—those important to our national defense. For each different material a stockpile goal has been established based on the anticipated wartime need. Of the 93 materials now in the stockpile, 53 are below stockpile goals. This means that an active program of stockpile acquisitions is necessary. There are, however, excess quantities of 40 different stockpile materials which can be sold to finance the needed acquisitions and that is precisely what the bill before us proposes.

With respect to acquisitions, the bill authorizes appropriations of $237 million to acquire needed stockpile materials. The administration has proposed the acquisition of 20 different, highest priority stockpile materials. The administration has asked, and the Armed Services Committee has agreed, that this list of commodities not be made public due to the potential for unethical market speculation. However, the list of commodities proposed to be purchased is available for any Member who wishes to see it.

Three commodities are authorized to be sold—tin, silver, and industrial diamonds. In the case of each of these materials, the stockpile currently contains substantially more of each commodity than would be needed under any wartime scenario. Details on each commodity are contained in the bill and the report and I will not go into them further at this point. These sales are expected to generate receipts of about $300 million in fiscal year 1980 and these receipts, under the provisions of the Stockpile Policy Act, will go into a special fund where they can only be used for the acquisition of needed materials. This fund effectively precludes the manipulation of the defense stockpile for economic or budgetary purposes.

The authorization to sell tin has created a great deal of interest from many parties. While it is clear that we have an excess of tin currently in the stockpile, the committee has also been made aware of the potential significant impact of the proposed tin sales on the tin-producing nations around the world—especially Bolivia and Malaysia. The committee is sensitive to these potential impacts and has taken steps toward extraordinary oversight of the tin disposal program. I emphasize that the tin disposal authorized in this bill is permissive and not directive. Before any sales are made the General Services Administration must accomplish market impact studies to determine how much tin—if any—can be sold, and at what rate, so as not to unduly impact the international tin market. In addition, as a member of the International Tin Agreement the United States must consult with the other parties to the agreement before any sales are made. The committee in its report has required a special quarterly report on the tin disposal program to permit a careful analysis of the program as it is executed.

The bill authorizes the donation of up to 5,000 long tons of excess tin to the international buffer stock. This same markup legislation, which, among other passed bill and has the endorsement of Senators CHURCH and JAVITS of the Foreign Relations Committee as indicated in their letter which I ask be printed following my statement.

Mr. President, this is the first installment of stockpile transaction legislation. It will take years to get our stockpiles into balance—selling off the excesses and buying needed materials. Fortunately this can be done for the next several years without cost to the taxpayer because receipts from the sales of excess materials will finance the purchases.

We must move with a sense of urgency. These stockpiles, which would sustain the United States in a prolonged conventional conflict, also serve to deter such a war. In a world of increasing interdependencies and dwindling natural resources, adequate stockpiles of strategic and critical materials give us added insurance, and—in the case of this bill—at no cost to the taxpayer.

I urge my colleagues to support this bill.

Mr. President, I ask that a letter from Mr. CHURCH and Mr. JAVITS be printed in the RECORD.

The letter is as follows:

UNITED STATES SENATE,
COMMITTEE ON FOREIGN RELATIONS,
Washington, D.C., July 16, 1979.

Hon. GARY HART,
Chairman, Subcommittee on Military Construction and Stockpiles, Committee on Armed Services, U.S. Senate, Washington, D.C.

DEAR GARY: It is our understanding that the Subcommittee on Military Construction and Stockpiles of the Senate Armed Services Committee, which you chair, will shortly markup legislation, which, among other things, will provide for the disposal of 35,000 long tons of tin considered surplus in the General Services Administration Strategic Stockpile. We have a particular interest in that section of the legislation which calls for the contribution by the United States of 5,000 tons of tin to the Fifth International Tin Agreement.

We wish to express our strong support for the contribution to the International Tin Agreement (ITA), since it would provide sorely needed resources to the International Tin Council in its efforts to bring the price of tin within the agreed upon price band as set forth in the Agreement. As you know, the United States has been a member of this Agreement since 1976. The ITA has been less than effective in stabilizing prices, largely due to the inadequate size of the buffer stocks relative to world demand for tin. The U.S. contribution would not only make good the commitment which Secretary Vance made in 1977 to make a voluntary contribution to the ITA, but would also have, we hope, a beneficial influence on world prices.

In addition, although the disposal of the remaining 30,000 tons of tin by GSA does not fall within the purview of our Committee, we wish to express our support for this initiative as well, because we think that this will have a strongly anti-inflationary impact on the American economy at a time when it is suffering from high and rising inflation.

We are confident that provisions in the Strategic and Critical Materials Stockpile Act will be sufficient protection to producers of tin in preventing undue or damaging disruption of the market as the tin is released.

Sincerely,

JACOB K. JAVITS,
Ranking Minority Member.
FRANK CHURCH,
Chairman.●

● Mr. TOWER. Mr. President, I shall make a few points about this bill which would authorize the President to contribute up to 5,000 long tons of tin metal from the national defense stockpile to the tin buffer stock and authorize the General Services Administrator to dispose of another 30,000 tons of surplus tin from the national defense stockpile.

There is a substantial quantity of tin currently held in the stockpile in excess of the requirements determined to be necessary for the purposes of the Stockpile Act and it does make sense to begin to reduce this excess stockpiled tin. However, I am concerned about the authority given to GSA to dispose of 30,000 tons of tin, which if not handled very carefully could disrupt the market of the sole producer of primary tin in the United States, the Texas City Smelter.

Texas City Smelter currently produces about 15 percent of the U.S. consumption of newly refined tin. Texas City has developed new smelting technology which will permit the use of any tin-bearing material, thus reducing dependence on tin concentrates. This change in the use of raw materials assures an independent U.S. capacity for tin production. Due to transportation costs, the tin produced by Texas City Smelter normally is marketed only within the United States.

Therefore, disposal of U.S. stockpiled tin would compete head on with Texas City's sales. Consequently, the very existence of Texas City Smelter is threatened by anything short of a carefully planned and monitored disposal program.

Protection against disruption of the markets of processors and producers by stockpile sales is required by law but the point bears emphasis. Also, our committee reiterated in its report on the Strategic and Critical Materials Transaction Act the necessity to avoid market dislocation by the GSA sales program.

Therefore, should this bill become law, the General Services Administration in a tin disposal program must assure that there is no undue disruption of the tin

market. Senator HART, who has managed this bill as chairman of the Senate Armed Services Subcommittee on Military Construction and Stockpiles, has commented on the sensitivity of the tin disposal in his floor remarks and I want to reinforce those comments. There must be no misunderstanding as to GSA's responsibility in this matter.●

● Mr. JAVITS. Mr. President, I rise in support of H.R. 595 which would authorize the disposal of excess quantities of tin, silver, and industrial diamonds froms the national defense stockpile. This bill also allows the President to contribute up to 5,000 tons of excess tin from the stockpile to the International Tin Buffer Stock, which was established under the Fifth International Tin Agreement.

As a participant in the International Tin Agreement and the major industrialized country in the world, the United States has a responsibility to the international community to participate actively in the agreement, which has as its objective the moderation of price swings in the tin market. The contribution of 5,000 long tons of tin to the tin buffer stock will help moderate the price fluctuations of this commodity.

In addition, the release of 35,000 tons of tin from the strategic stockpile will help fight inflation and benefit tin consumers, who are bearing the brunt of price increases as tin consumption continues to exceed world production. Producers and consumers alike have been waiting to see if the United States will authorize the release of this excess tin into the world market since, in the near term, neither a significant decline in consumption nor in production is likely. This situation has created an uncertainty among both tin producers and consumers regarding tin supply. The release of 35,000 long tons of tin will serve to reduce this anxiety and will, therefore, help to stabilize the international tin market.

While consumers will benefit from the increased availability of tin in the international market, I believe that this bill has met the concerns of many of the developing countries which are major tin producers. These countries fear that the sale of tin will depress the world price for tin and cause severe damage to their domestic economies. The United States has a commitment to protect the developmental needs of these countries. In order to insure that surplus tin is released to the market in an orderly manner and that the markets for developing countries are not unduly disrupted, the legislation regulating stockpile disposals by the GSA already stipulates that GSA must not allow price dislocations to occur when excess stockpile reserves are released on the world market. This bill assures a U.S. commitment to stable world markets by further stipulating that the GSA must issue a quarterly report to the Committee on Armed Services in both the House and the Senate on the impact of tin sales and proposed tin sales on tin markets, producing countries, and U.S. producers.

In addition, H.R. 595 allows for the disposal of 15 million troy ounces of silver. Silver is an essential element in the photographic industry, which is located primarily in New York State; and I welcome this release.

I urge my colleagues to support this legislation, which will help fight inflation by increasing the supply of certain key commodities while taking into consideration the concerns of producers. In addition, this legislation will permit the United States to meet its international obligation under the International Tin Agreement.●

● Mr. THURMOND. Mr. President, legislation to give careful management of the national defense stockpile was approved earlier this year and the pending bill is the first attempt to put that law into operation.

As the report on the pending bill, H.R. 595, indicates, there are 93 different commodities presently in the defense stockpile, 53 of which are below stockpile goals.

In an effort to begin redressing these shortages, H.R. 595 proposes to dispose of quantities of commodities in excess of our needs in order to generate funds to buy those items in which we have shortages.

This particular bill proposes the sale of silver, tin, and industrial diamonds. I favor the House position of no sale of silver since it is a scarce commodity and its price is steadily rising. However, this issue will be addressed in the conference and for that reason, I will not object to the pending bill.

Mr. President, I do feel it is important to begin addressing the shortages in the defense stockpile and for that reason, I urge passage of this modest beginning.●

● Mr. ROBERT C. BYRD. Mr. President, I rise to support passage of the Strategic and Critical Materials Transaction Authorization Act of 1979.

By authorizing the disposal of noncritical amounts of tin and silver, the Committee on Armed Services has taken a positive step to mute the inflationary pressures which have plagued these commodities.

In my own State of West Virginia the high price of tin has created concern, particularly among those engaged in tin plating, such as the Weirton Steel Co. Since tin is a raw material of companies such as Weirton Steel, any price reduction will increase demand for their products and encourage full employment of their productive capacity.

The bill also provides for the purchase of a list of commodities which the committee feels are necessary to maintain strategic preparedness.

I commend the administration for requesting—and the committee for agreeing—that this list be withheld from the public to avoid speculation in the commodity markets.

Speculation in the nonferrous metals markets has been intense over the past year, particularly in the last several months. Nonferrous metal prices had increased 40 percent over the previous year before the recently announced Federal Reserve action to tighten credit and let interest rates rise.

One of the rationales offered for the Fed's action was to limit the supply of money available for speculative, nonproductive investments, such as those driving up the price of these metals.

It is my hope that bankers and brokers who have financed these speculative activities will adhere to the message of restraint which Chairman Volcker has suggested. To do otherwise not only frustrates efforts to dampen inflation—it also violates all principles of prudent credit analysis.

Those who allocate credit must act responsibly to avoid speculative, nonproductive, purely financial loans. Otherwise, pressures will increase to artificially direct credit through Government action. This is an approach which no one in this country wants. It will be unnecessary if credit markets respond to the Fed's recent action in a responsible fashion.

I compliment the distinguished floor manager of the bill, Mr. HART, for his role in bringing this legislation to the floor. I also thank the Armed Services Committee for its work on the bill.●

● Mr. RANDOLPH. Mr. President, on the first day of the 96th Congress I introduced S. 27, which called for the release of 35,000 long tons of tin from the U.S. strategic materials stockpile. My colleague from West Virginia, Representative ROBERT MOLLOHAN, introduced an identical bill H.R. 595 on the same day.

The House approved H.R. 595 by a vote of 371 to 16 on April 3.

The Senate Subcommittee on Military Construction and Stockpiles held a hearing on S. 27, S. 1397, and H.R. 595 on July 10. I am appreciative that the subcommittee allowed me to testify on the merits of S. 27.

The strategic materials stockpile currently contains over 200,500 long tons of tin. Of that total, only 32,500 long tons are necessary to fulfill the stockpile goals pursuant to the Strategic and Critical Materials Stockpiling Act. Thus, there are 168,000 long tons of tin which could be made available for sale without jeopardizing our national defense goals.

I feel that this oversupply of tin in the stockpile is an economic waste. I am also concerned with the fate of the domestic tin-plated steel industry in West Virginia. This industry provides jobs for more than 5,000 workers in West Virginia. The jobs of these West Virginians, as well as other Americans, are threatened by the artificially high price of tin imported into this country. These high prices are the result of action by commodity speculators in the world tin markets.

In January 1976, the average price of tin was $3.01 per pound. Today, 3 years later, the price has risen to $7.45 per pound. If this legislation is not passed, the price promises to go even higher.

Total consumption of tin in the United States is approximately 61,000 tons per year. The tinplate canning industry uses approximately 18,500 tons of that total usage. West Virginia uses over 4,000 tons to produce tin-plated steel. During the past 2 years, the cost to purchase tin by this one industry in West Virginia has

increased by $26,640,000. These increased costs are borne by U.S. consumers. The price of tin has increased due to two factors: A shortfall of tin supply in the world market and fluctuation of tin prices by commodity speculators. Today the supply levels are near world demand for the first time in several years. Therefore, I believe that a release of tin would have a moderating effect on these escalating tin prices.

Legislation authorizing the sale of tin passed both the House and the Senate in the 95th Congress. In the Senate, this was in the form of an amendment, which I cosponsored with Senator CHURCH, to the sugar bill and was lost in the rush to adjournment. As soon as this fact reached the trade press, speculators pushed the price of tin even higher. Failure to pass this legislation will, once again, push tin prices to higher levels. This will have an inflationary impact on food prices throughout the United States.

I urge the Senate to expedite the passage of this bill. Enactment of this legislation will help us fight the war against inflation.

I appreciate very much the cooperation and support my proposal has received from Subcommittee Chairman GARY HART; Chairman JOHN STENNIS and the members and staff of the Armed Services Committee.●

● Mr. CHURCH. Mr. President, I rise in support of S. 595, a bill to authorize disposal of 35,000 tons of surplus tin from our domestic strategic stockpile—up to 5,000 tons of the total to be contributed to the international tin buffer stock established under the Fifth International Tin Agreement in 1976.

The United States joined the Fifth International Tin Agreement in the belief that such an agreement could be of great benefit to both producer and consumer countries by providing some measure of price and supply stability in an otherwise volatile world market. The international tin buffer stock is today in desperate need of tin if the agreement is to be able to function successfully to dampen upward pressures on tin prices—prices already at historically high levels.

It is U.S. policy that international commodity agreements be financed by both producer and consumer contributions—either in cash or kind—in the belief that both sides must have an equal stake if any agreement is to be a success. In keeping with this belief, Secretary of State Vance, in May 1977, pledged that the United States would make a voluntary contribution to the tin buffer stock. The administration has been seeking congressional approval for such a contribution ever since.

Many of my colleagues will remember that in the closing days of the last Congress both the House and Senate voted favorably on this legislation. Only the confusion of the closing days prevented it from becoming law. In April of this year, the House once again considered this legislation (H.R. 595) and at that time acted favorably on this measure by an overwhelming margin of 371 to 16.

Let me, for one moment, address the foreign economic policy concerns which have been raised with regard to these sales. Specifically, Bolivia, one of the world's largest producers of tin—second only to Malaysia—is apprehensive that the sale of 35,000 tons of tin will be severely disruptive to its traditional markets. This, it feels, will severely impair its export earnings which accrue primarily for international sales of tin.

While I understand the apprehension of the Bolivian Government, I think that this concern can be laid to rest. Article 43 of the International Tin Agreement specifically prohibits members of the ITA from undertaking any noncommercial stockpile disposal which might be disruptive to "the usual markets" of tin producers, processors, and consumers. Bolivia is a signatory nation of the International Tin Agreement, as well as the United States. In addition, article 43 also requires that the United States, as a member of the International Tin Agreement, consult regularly with the International Tin Council, the administrative body of the ITA, before undertaking any transactions from our strategic stockpile. It has also been U.S. policy to consult on a bilateral basis, with all major producers of tin before taking any action. Further, as my distinguished colleague from Colorado, Mr. HART, can attest to, the Strategic Stockpile and Critical Materials Act of 1979, which has recently become law, also instructs GSA to conduct sales in such a manner as not to disrupt the traditional markets of producers and consumers. Both the ITA and the new Stockpile Policy Act provide sufficient protection against tin disposal without due regard to market conditions. Further, it is my understanding that this policy bill also requires that GSA get "top dollar" for all sales. Therefore, it would certainly not be in the interest of GSA to dump large quantities of tin on the market all at once without due regard to what this might do to the price it would receive.

It is my belief that disposal of this tin, conducted in a judicious manner, can help to stabilize its price on world markets. Since the United States is the world's largest consumer of tin, utilizing approximately 25 percent of the world's production—almost all of which must be imported—this measure should serve as an important step in curbing the high and rising rate of inflation in this country.

Senate adoption of this bill will in no way damage our national security as the strategic stockpile currently has 168,000 long tons of tin in excess of our needs. Adoption of this bill will allow the U.S. Government, at long last, to make good on an international pledge, and at the same time be a step which will substantially reduce the inflationary impact of the present high price of tin.●

The amendment was agreed to.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

The title was amended so as to read: "An act to authorize certain transactions involving the acquisition and disposal of strategic and critical materials for the national defense stockpile."

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. HART I move that the Senate insist on its amendment, request a conference with the House of Representatives, and the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to, and the Presiding Officer (Mr. HEFLIN) appointed Mr. HART, Mr. STENNIS, Mr. CANNON, Mr. THURMOND, and Mr. TOWER conferees on the part of the Senate.

HOUSE BILL JOINTLY REFERRED

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that H.R. 3909, received from the House today, be jointly referred to the Committees on Governmental Affairs and the Judiciary.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I yield the floor.

DEPARTMENT OF THE INTERIOR APPROPRIATIONS, 1980

The Senate continued with the consideration of the bill.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time be equally charged against both sides.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MELCHER addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. MELCHER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 516

(Purpose: To restore $10,000,000 to the Bureau of Indian Affairs Operations of Indian programs for education)

Mr. MELCHER. Mr. President, I have an amendment at the desk, a printed amendment numbered 516, and I ask for its immediate consideration.

The PRESIDING OFFICER. Does the Senator ask that the pending amendment by Senator ROTH be laid aside temporarily?

Mr. MELCHER. I so ask.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The legislative clerk read as follows:

The Senator from Montana (Mr. MELCHER), for himself and Mr. MCGOVERN, proposes amendment No. 516:

On line 22 of page 20, strike "$770,835,000", and in place thereof insert "$780,835,000".

Mr. MELCHER. Mr. President, I ask unanimous consent that Senator DECONCINI be added as a cosponsor.

The PRESIDING OFFICER (Mr. TSONGAS). Without objection, it is so ordered.

Mr. MELCHER. Mr. President, last year an item in this amount that is listed here on line 22, page 20, for school operation was listed at $190,478,000.

The House has allowed for school operation for this coming fiscal year a very similar amount, almost identical, for the schools, these Indian schools.

Now, these are schools that are operated by the Bureau of Indian Affairs.

It is very understandable to me, Mr. President, why the subcommittee and the Appropriations Committee of the Senate would try to save money where possible. But I believe that in striking about $10 million out of school operations for these Indian schools they have been a little bit too careful in protecting the Federal Treasury.

We understand from the committee and from the Bureau of Indian Affairs that the number of students for this coming fiscal year in these schools is about the same number. If it is up a few or down a few, it is about the same. I cannot tell you whether it is a slight increase or a slight decrease, but it is apparent that in every school's operations the effects of inflation on operating the schools have been rather severe.

That cannot be avoided if you are going to have quality education and you are going to have to meet the inflationary pressures and recognize that to maintain the same level of quality education, whether it is for Indian schools, for public schools, for private schools, for any schools, you are just going to have to pay out more money.

I think it is unwise, Mr. President, for that amount of money to be cut out of the operating budget of these Indian schools.

Mr. McGOVERN. Mr. President, will the Senator from Montana yield?

Mr. MELCHER. Yes, I would be delighted to yield to the Senator from South Dakota.

INDIAN EDUCATION

Mr. McGOVERN. Mr. President, I support the amendment offered by my colleague, Senator MELCHER which I am pleased to cosponsor. It is true that waste must be cut, but I contend that a more judicious method must be found which will pinpoint that waste. Under the $10 million cut proposed today, the schools which will be the primary losers will be those small schools for which a 5-percent cut may mean the difference between closing or remaining in operation as an educational facility. In most cases, there is no other school within miles—there is simply no alternative for the children.

The primary reason for a restoration of the cut is that there is no money saved under the formula—it is merely redistributed. Perhaps a small number of schools may be slightly overfunded, but by cutting across the board, it is not possible to focus on those schools, whereas the majority of schools which have been underfunded each year will bear the burden. Additionally, at this time, the Bureau of Indian Affairs is working on a uniform funding standard, which is to be completed for fiscal year 1981. Now is not the time to cut funding—it is at best, premature.

In South Dakota, for instance, there are 16 schools with enrollments between 30 and 200 children. Over 7,000 children attend all the schools which will be affected in South Dakota alone. These children will receive a lesser education if this cut is not restored. Let us take a close and careful look at specific cases of waste in Indian education and eliminate that waste. We cannot afford to jeopardize the education of all Indian children because of minor overfunding in a few of our schools.

I ask unanimous consent that a table indicating affected schools in South Dakota be printed at this point in the RECORD.

There being no objection, the table is ordered to be printed in the RECORD, as follows:

Affected schools in South Dakota and pupils in each school

Enemy Swim	45
Flandreau	450
Cherry Creek	100
Cheyenne-Eagle Butte Coop	870
Promise	20
White Horse	61
Little Wound	530
Lone Man	350
Red Scaffold	47
Bridger Day School	30
Swift Bird	46
Manderson Day School	245
Manderee	184
Oglala Community Coop	1,033
American Horse	145
Ft. Thompson	224
Crow Creek	135
Lower Brule	222
Rosebud Dorm	150
Crazy Horse	381
Porcupine Day School	153
St. Francis	481

Mr. McGOVERN. I heartily applaud and indeed I am a cosponsor of the amendment of the Senator from Montana.

What the Senator is attempting to call to the attention of the Senate is that the $10 million cut ordered by the Appropriations Committee on Indian education is not properly targeted. It is an across-the-board slash in all Indian schools without regard to their present level of funding.

I am told there are a few of the Indian schools that are overfunded, but the overwhelming majority, most of which are small schools, are underfunded, and in many parts of the country, including my own State, they are the only schools to which Indian children have access. They would have to go a great many miles to find another school.

If this cut is not restored it will have the effect of actually closing down a number of Indian schools in South Dakota. There are some 7,000 children who are affected by this possible reduction in school services.

It would be much more sensible, it seems to me—and this is what I understand motivates the Senator from Montana—for selective cuts to be made aimed at those schools where a case can be made that they are overfunded. We may very well have to increase the funding on some of the other schools where they do not have adequate budget support.

But it would certainly be pennywise and pound foolish to try to save a few dollars at the expense of the education of Indian children. If we are ever going to bring the Indians in this country up to the economic, social, and political level of other citizens of the United States, education is going to have to be the key factor in that effort. The reason most of us are here in the U.S. Senate is because we have had the opportunity for education, many of us go on to advanced degrees.

Education means job advancement, it means security, it means a better life for our people, and especially for these Indian children who come into the world with two strikes against them at the outset.

So I hope instead of going forward with this $10 million across-the-board slash, the committee will give the Bureau of Indian Affairs an opportunity to complete the study they now have underway to determine which schools are overfunded and which are underfunded, and then make some selective judgments rather than this kind of an across-the-board indiscriminate cut.

I want to commend the Senator from Montana for giving us the opportunity to make this case here on the Senate floor. I hope the committee will see fit to adopt this amendment, to accept this amendment. I thank the Senator for yielding to me.

Mr. MELCHER. Mr. President, I thank my friend from South Dakota for his very apt remarks, because he is zeroing in on the very, very point of why we offer the amendment.

The $10 million proposed reduction would affect all of the approximately 220 Indian schools throughout the country, and under the funding formula established by sections 1128 and 1129 of the Education Act Amendments of 1978, Public Law 95-561.

Every school is supported from a central fund. There is no targeting of appropriations. If $10 million is taken out of the pot, out of this school operation pot, for the schools all schools will have about, well, it is a little more than a 5 percent amount less to work with this coming fiscal year for operation expense. I do not believe this serves the national interests nor is it practical in furthering Indian education, particularly in light of whatever we end up with for fiscal 1979 as our inflation rate, and what that is going to be, the inflation rate, in fiscal 1980.

If there should be a 10-percent inflation rate, it is obvious that the reduction from the amount that was appropriated last year will be further reduced by that inflation rate. It is extremely difficult for me to believe that this would be wise, in that we have said for years, as a conventional policy, that Indian education is one of the top priorities that we provide for our Indian people. I think their opportunities are enhanced only as the

educational opportunities are exercised and used by Indian children.

I would very much hope that the committee will find favor with our plea for restoring this $10 million.

The PRESIDING OFFICER. Who yields time?

Mr. HUDDLESTON. Mr. President, it is a very difficult thing to stay within budget restraints and within the authorizations in the budget resolutions that we all try to deal with. It is difficult at best. It is impossible if you are willing to appropriate additional funds for agencies and projects for which there have been no requests for additional funds.

As has been indicated, the committee felt that a $10 million reduction here could be sustained by this function without doing any damage to the operation of the Indian schools. The cut was made; we have had no appeal from the agency regarding this reduction.

The funds will be disbursed under a formula system that has been established, and we have to believe that this formula can be satisfied, that adequate funds will be made available to the schools on the basis of that formula within the appropriation that has been included here in the bill.

I have not had long experience in this area of dealing with the problems of the Indians and the schools, in particular, but it is my understanding that prior to the new formula distribution system now being used, the schools were virtually on their own. It has been suggested by the Senator from Montana and the Senator from South Dakota that some schools were indeed overfunded and perhaps some were underfunded.

It seems to me that the present system has brought some order to that procedure, and that, with the funds provided, and with no objection to the reduction that has been made, the committee's recommendations should be accepted by the Senate.

I might also point out that a portion of this reduction also relates to the closure of two off-reservation boarding schools that were consolidated, and this consequently reduced the requirements for funding. So I would hope that the Senator from Montana would not press the amendment. If he does feel that he needs to have a vote on it, of course, it will come under the special order, I assume; is that correct, Mr. President?

The PRESIDING OFFICER. The Senator is correct.

Mr. HUDDLESTON. In line with the other amendments.

Mr. MELCHER. Will the Senator yield——

The PRESIDING OFFICER. The Chair will correct itself. The yeas and nays have not been ordered.

Mr. MELCHER. Mr. President——

The PRESIDING OFFICER. The Senator from Montana.

Mr. MELCHER. The very able floor manager of the bill, the Senator from Kentucky (Mr. HUDDLESTON), has stated that the Department has not appealed. But we are confronted, in our offices, and indeed the Select Committee on Indian Affairs is also confronted, with scores, perhaps hundreds, of calls from Indian communities throughout the country that are apprehensive that the cut is not warranted and will seriously jeopardize their school operations in 1980.

While I cannot speak as to the official position of the Department or the Bureau of Indian Affairs, I can relate this sincere concern of many of our Indian citizens across the country who are involved.

There is one statement the Senator made as to which I would like to know whether my thinking is correct or wrong. The Senator mentioned two schools that would be dropped, that would be closed, and that that would alleviate some of the funding that we are talking about.

It was my understanding that both of those schools were involved with Johnson-O'Malley funds, a separate item. Is that true, or not?

Mr. HUDDLESTON. I am advised by the staff that those are not the two schools.

Mr. MELCHER. And they would also be involved in these operating funds?

Mr. HUDDLESTON. They will be as long as they are operated. They are boarding schools.

Mr. MELCHER. But they are to close down?

Mr. HUDDLESTON. At the end of December, I believe.

Mr. MELCHER. Can the Senator advise me how much that would relieve the operating fund, how much was allowed for them during fiscal 1979?

Mr. HUDDLESTON. I will be happy to check our files. I do not have that immediately available, but we will get that for you.

Mr. MELCHER. Mr. President, I ask unanimous consent that this amendment be temporarily laid aside, and perhaps we can have that information made available.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Montana? Without objection, it is so ordered.

Who yields time?

UP AMENDMENT NO. 655

(Purpose: Require the Energy Information Administration to share information with the Justice Department and the Federal Trade Commission)

Mr. MAGNUSON. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Washington (Mr. MAGNUSON), for himself and Mr. KENNEDY, proposes an unprinted amendment numbered 655:

On page 43, line 12, insert the following:

Provided: That none of these funds shall be available beyond the 60th day following enactment of this Act—

Mr. MAGNUSON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 43, line 12, insert the following:

Provided: That none of these funds shall be available beyond the 60th day following enactment of this Act for the collection, assembly, evaluation, analysis, validation, maintenance, production, or processing of energy information (including information collected prior to enactment of this Act) which the Department does not promptly make available to the Department of Justice or the Federal Trade Commission, upon their request, for their use pursuant to their duties and responsibilities as prescribed by existing law, including but not limited to, antitrust statutes.

Except that the foregoing shall not apply to information collected prior to enactment of this Act where an explicit written commitment was given by the Department restricting its distribution from the Department of Justice or the Federal Trade Commission.

The PRESIDING OFFICER. Does the Senator from Kentucky yield to the Senator from Washington?

Mr. MAGNUSON. Mr. President——

The PRESIDING OFFICER. The Senator will suspend. Does the Senator from Kentucky yield to the Senator from Washington?

Mr. HUDDLESTON. I yield to the Senator from Washington.

The PRESIDING OFFICER. The Senator from Washington.

Mr. MAGNUSON. Mr. President, I understand there is unanimous consent that all amendments must be submitted by 5 o'clock. Is that correct?

Mr. HUDDLESTON. The Senator is correct.

Mr. MAGNUSON. But there was no time provided for anybody to discuss amendments. If I had been here, I would have objected.

Mr. HUDDLESTON. We have been on the floor all afternoon, and there has been a great deal of time available.

Mr. MAGNUSON. I have been busy. I need at least 5 minutes to discuss my amendment.

Mr. HUDDLESTON. I think you can take 5 minutes.

Mr. MAGNUSON. This is an amendment, Mr. President, on behalf of Senator KENNEDY and myself, which would require the Energy Department's Energy Information Administration to share information with the Justice Department and the Federal Trade Commission.

This provision does not provide any new legal authority to our antitrust agencies. It merely insures that these agencies have access to information to which they should already be entitled.

Mr. President, in 1974 the Energy Supply and Environmental Coordination Act provided the predecessor to the Department of Energy with the power to collect energy information.

That law also provides that such information would be available to the FTC and Justice Department when these agencies need information to carry out their lawful functions.

But now, despite this Nation's chronic energy problems, the Department of Energy is refusing to cooperate with our antitrust agencies.

The Department of Energy has been able to circumvent the information sharing requirements laid down by Congress and avoid the Energy Supply and Environmental Coordination Act by collecting information using other authorities, exclusively.

Mr. President, this is not a new prob-

lem. There are numerous instances over the past 4 years where the Department of Energy has hindered our antitrust agencies.

Why? What reason does the Department of Energy give for its behavior?

The Department's only answer is that it fears the oil companies will not fully cooperate if Justice and the FTC have access to DOE's information.

As the chairman of the Senate Judiciary Committee knows—and I understand that your committee has held hearings on this matter—section 11(d) of the Energy Supply and Environmental Coordination Act protects the oil companies information from public disclosure.

I therefore ask: What are the oil companies hiding? Why would the Department rather cooperate with these companies than with our antitrust agencies?

Finally, Mr. President, I would like to point out that when the Department withholds information, FTC and Justice must obtain it directly from the companies.

The result is duplicative information requests and unnecessary court battles for information already in the Government's possession. By the time our antitrust agencies obtain the information, our energy crisis has already passed and the next one is upon us.

Mr. President, we cannot continue to allow the oil companies to set one Government agency against another. It is time to join forces to solve our energy problems. This amendment is a step in that direction.

There is some question, I will say to the distinguished Senator from Kentucky, about the original amendment.

We modified the original amendment. We exempted information where there was an agreement with the oil companies that the information should not be given to the Department of Justice or Federal Trade Commission. I was hopeful that the Senator from Kentucky would take the amendment to conference.

I discussed this amendment in the Appropriations Committee but decided that I would not pursue the matter at that time.

Mr. HUDDLESTON. I do remember. The very feature which the Senator from Washington mentions is the one which caused myself and other Members a great deal of trouble. There are agreements between the Department and oil companies about certain types of information, and it is given on the basis that it will be held confidential.

Mr. MAGNUSON. This exempts those written agreements.

Mr. HUDDLESTON. With that type of information exempted, it certainly makes it a more acceptable amendment. However, I do not see my colleague from Alaska in the Chamber to express his opinion on this amendment. I understand he will be here very shortly.

The PRESIDING OFFICER. Who yields time?

Mr. HUDDLESTON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 656

(Purpose: $372,000 to be appropriated to the National Park Service for the acquisition of the property comprising the former home and office of Frederick Law Olmsted in Brookline, Massachusetts)

Mr. KENNEDY. Mr. President, I send an amendment to the desk and ask for its immediate consideration. Mr. President, I ask unanimous consent that it be in order to proceed with the immediate consideration of this amendment.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, this amendment is in behalf of myself and my colleague, Senator TSONGAS.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Massachusetts (Mr. KENNEDY) for himself and Mr. TSONGAS, proposes an unprinted amendment numbered 656.

Mr. KENNEDY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 8, line 7, strike out "$554,175,000" and insert in lieu thereof "$554,547,000".

On page 8, line 15, strike out "$149,022,000" and insert in lieu thereof "$149,394,000".

Mr. KENNEDY. Mr. President, on June 7, 1979, the Senate passed S. 495, a bill to establish the Frederick Law Olmsted National Historic Site in Brookline, Mass.

Last week, the Senate agreed to the House amendments to the bill, and sent the legislation to the President for his signature. The President signed the bill on Friday.

The bill authorizes the acquisition and management of Olmsted's home and office, together with the extensive archival collection which is housed there.

Frederick Law Olmsted is called the "father of landscape architecture." Before his death in 1903, Olmsted had created 17 major urban parks, planned entire cities, and designed scores of college campuses from coast to coast.

Olmsted's major accomplishments include:

Central Park in New York City.

The Emerald Necklace in Boston.

The Capitol Hill Grounds.

Preservation of Yosemite Park.

More than anyone else, Olmsted was responsible for bringing green space to our Nation's cities. Millions of Americans appreciate his work every day.

This amendment only provides funds needed to acquire the site in Brookline at a cost of $372,000.

We must act now. The family which owns the home and office has been waiting 6 years for congressional action. The Park Service indicated in their budget justification that the family cannot afford to keep the house much longer.

During markup, the committee decided not to include funds because of lack of authorizing legislation. Now that Congress has enacted this legislation, I am hopeful that we will provide the funds necessary to acquire the site.

Mr. President, I have talked to the floor manager of the bill and to members of the minority. I believe there is no objection.

Mr. HUDDLESTON. Mr. President, the Senator has stated correctly that this matter was not considered in the markup because of the lack of authorization at that time. We are willing to add it now with, of course, the understanding that still the figures may not be precise. At the time of the conference, I think we can make a determination as to specifically what is required.

The PRESIDING OFFICER. Is there objection to the amendment? If not, the amendment is agreed to.

UP AMENDMENT NO. 657

Mr. LEVIN. Mr. President, I send an amendment to the desk and ask unanimous consent for its immediate consideration.

The PRESIDING OFFICER. It is necessary to have the amendment of the Senator from Washington set-aside temporarily.

Mr. LEVIN. Mr. President, I ask unanimous consent that that be done.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will state the amendment.

The legislative clerk read as follows:

The Senator from Michigan (Mr. LEVIN), for himself and Mr. PRYOR, proposes an unprinted amendment numbered 657.

Mr. LEVIN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 54 after line 9, insert the following:

Further, the Secretary of the Interior is authorized and directed, subject to the supervision and approval of the Franklin Delano Roosevelt Commission, to construct the Franklin Delano Roosevelt Memorial in accordance with the general design developed by the Franklin Delano Roosevelt Memorial Commission and approved by the Commission on Fine Arts on March 2, 1978. For this purpose the sum of $10,000,000 is appropriated.

Mr. LEVIN. Mr. President, this amendment authorizes and directs the Secretary of the Interior to construct the Franklin Delano Roosevelt Memorial. The matter has languished just too long. It is time to get this matter off dead center. The total cost of this amendment is estimated by the Commission to be between $24 and $32 million. The $10 million figure referred to in this amendment which I have introduced on behalf of myself and Mr. PRYOR would be to appropriate the first $10 million toward that total cost.

Mr. President, there is no authorization bill yet for this memorial. I have spoken with the floor manager of this bill and he has indicated to me that if this amendment were withdrawn, the com-

mittee would undertake to hold hearings on this matter. I am wondering whether or not he may be able to comment on that at this time.

Mr. HUDDLESTON. Mr. President, I am glad to affirm to the Senator that we will, in fact, do just that. There is no budget request at this time. There have been no hearings by our committee, no reason to hold hearings up to now. It is a matter that I have some interest in and I can assure the Senator from Michigan that we will, certainly, look into it.

Mr. LEVIN. Mr. President, with that understanding to hold hearings, which I understand it to be, I withdraw this amendment. In conclusion, I just state that it is not a partisan issue that we are undertaking here. It is a matter of pride, it is a matter of remembrance of our past, that we finally have a memorial to President Franklin Roosevelt.

I thank the Senator from Kentucky. I am wondering if I did understand him correctly that the floor manager of the bill is undertaking to hold hearings on this matter. I was distracted for a moment.

Mr. HUDDLESTON. Mr. President, that is a correct understanding.

Mr. LEVIN. I thank the Senator.

With that understanding, Mr. President, I do withdraw the amendment at this time.

The amendment was withdrawn.

UP AMENDMENT NO. 655

Mr. KENNEDY. Mr. President, I believe that a few minutes earlier, Senator MAGNUSON offered an amendment in behalf of himself and me dealing with the information that has been provided to the Department of Energy and its availability to the Federal Trade Commission. I rise to strongly support that amendment. It only makes sense, Mr. President, as we are attempting to fashion and shape an energy program, that information that is in one governmental agency be made available to other governmental agencies under the clear restrictions of confidentiality under which the information has been obtained.

One of the critical problems we have been facing in fashioning energy policy is information. This amendment would permit the transfer of information to another agency in Government which has the authority and power to gain such information. We have seen, over a period of months and years, how difficult it is for an agency to gain the information it needs.

It seems to me, Mr. President, that this is an extremely wise amendment. It is one that can make a great deal of difference to the Congress in fashioning energy policy. I think that, most importantly, it is clearly in the interest of the consumers of this Nation. I commend the Senator from Washington for bringing this matter before the Senate and I commend him, speaking as the chairman of the full Judiciary Committee, which has an interest in the competitive aspects of our economy. Knowing the very constructive role that the Federal Trade Commission has played in insuring a greater sense of competition, I say this action is in our national interest.

I join in urging the Senate to accept it and again commend the Senator from Washington for offering it.

The PRESIDING OFFICER. Who yields time?

Mr. MAGNUSON. Mr. President, I move the adoption of the amendment.

Mr. DOMENICI. Mr. President, I want to say to the distinguished chairman that Senator MCCLURE desires to be heard on this amendment. He is on his way. I certainly want to give him that opportunity and would only ask, since I have the floor, that I may hold it for him.

I do have a 30-second dialog with Senator BYRD. I wonder if I could do that and Senator MCCLURE will arrive in short order. He wants to oppose the amendment and state some facts on it. I think, under the rule, he is entitled to that.

ORDER TO LIMIT ROLLCALL VOTES

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the rollcall votes following the first rollcall vote by limited to 10 minutes each to run for the remainder of the day.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, the only comment I have on the amendment that is pending—and if my good friend from Idaho desires to debate the issue, I have held the floor for him—is that I cannot imagine how Senator MAGNUSON could have been here so many times arguing about legislation on appropriations and then come along with this one, which has been debated in authorizing committees time after time. It is not one that we have not considered, I say to my good friend. I am sure the Energy Committee of the Senate has considered this proposal, as the appropriate authorizing committee, many, many times and has not seen fit to go along with it. Now, in an appropriations bill, the Senator from Washington sees fit to bring it up.

I just do not think it is the way to do business. Besides its being bad law, I do not think it is very consistent to argue that we ought not to do it and then do it on one of the most important and controversial issues that has come before the Energy Committee.

Mr. MAGNUSON. Will the Senator yield?

Mr. DOMENICI. I am finished.

Mr. MAGNUSON. As a matter of fact, Mr. President, the Energy Committee has held hearings on this issue. Senator JACKSON agrees with the amendment. The Judiciary Committee has held hearings on it. They agree with the amendment.

Mr. DOMENICI. Let me say to my friend that if they have had hearings on it, they have had, many, many times, the opportunity to report out such a measure and the Energy Committee has never done that. I cannot imagine that they agree with it and yet will not report it out.

Mr. MAGNUSON. They agree with it.

Mr. DOMENICI. Perhaps there is some other reason.

Mr. KENNEDY. Will the Senator from Washington yield for a question?

The PRESIDING OFFICER. Does the Senator from Kentucky yield?

Mr. HUDDLESTON. Yes, I yield 1 minute.

Mr. KENNEDY. Is it not true that this amendment has been adopted by the Senate on two previous occasions?

Mr. MAGNUSON. Yes.

Mr. KENNEDY. On authorizing legislation.

Mr. MAGNUSON. Yes.

Mr. KENNEDY. And is it not true that still the Department of Energy has been recalcitrant in supplying that information to the commission?

Mr. MAGNUSON. That is correct.

Mr. KENNEDY. Is not the purpose of the Senator's amendment once again to reaffirm the position of the Senate that the Department of Energy should conform with what has been the clear expression of the Senate on previously authorized legislation?

Mr. MAGNUSON. And we take care to say—

Except that the foregoing shall not apply to information collected prior to enactment of this Act where an explicit written commitment was given the Department restricting its distribution from the Department of Justice or the Federal Trade Commission.

Mr. KENNEDY. Mr. President, in 1974 the Congress passed the Energy Supply and Environmental Coordination Act. This act granted extensive powers to Federal energy policymakers—then located in the old Federal Energy Administration—to acquire energy information. The act not only provided authority to gather information, but it also provided a comprehensive scheme for its treatment. It detailed the manner in which confidentiality was to be protected: It provided protection for trade secrets; and it provided for the sharing of the information among other Government agencies and with the Congress.

When the Department of Energy was created all this authority was transferred to the new Department. The new Energy Department, however, attempted to sidestep the information gathering provisions of Energy Supply and Environmental Coordination Act by purporting to gather data pursuant to earlier and less comprehensive authority.

The sole purpose of this side-step was to avoid having to share data with other agencies, particularly the Department of Justice and the Federal Trade Commission.

The Energy Department went this route because it thought that would improve the convenience with which it could gather data. But its main effect has been to force Government agencies to make separate and overlapping requests for data that has already been collected by DOE, and it has thus placed an unnecessary burden on industry. It has recreated the waste, duplication, and inefficiency that section II of the ESECA was designed to prevent.

Last Congress, as chairman of the Antitrust and Monopoly Subcommittee, I held hearings on this question. I was shocked at the poor state of cooperation between the Federal Trade Commission

and the Department of Justice on one hand and the Department of Energy on the other. I found the continued failure of the Energy Department to bring its data gathering functions under the comprehensive scheme provided in section II of the ESECA inexcusable and it was even more inexcusable that the reason for the failure was simply to avoid congressional mandated cooperation with other Government agencies.

When the National Energy Act was before the Senate last year, I introduced an amendment similar to that now being offered by the senior Senator from Washington. It would simply have done what the Congress thought it did when it passed the ESECA with section III. This amendment was passed by the Senate but got lost between the cracks in conference.

The Congress is long overdue in correcting this situation. On one hand it is wasteful for business to have to respond to multiple demands for the same data and information. On the other hand it is equally inefficient and illogical for energy companies to be able to treat each Federal agency as if it were a separate Government whose files are immune from reasonable access by other agencies.

This amendment does nothing more than what the Senate has attempted to do on two previous occasions: Put the data gathering functions of DOE into a comprehensive scheme that avoids waste and duplication both by industry and by other Government agencies.

I eliminate those items that have explicit written commitments restricting distribution to FTC and Department of Justice.

The PRESIDING OFFICER. Who yields time?

Mr. McCLURE. Mr. President.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. McCLURE. Mr. President, first of all, this is not a new battle. It is a very old and continuing saga. But to represent that this is simply what the Senate has done before on other laws is not entirely accurate.

This battle has been going on, as I said, for a long, long while and this is the only way in which the information can be acquired and the only way in which it can be disseminated and, as a matter of fact, the laws now on the books require and accept quite a range of possibilities for the collection and the use of the data which the Energy Information Agency can require and can obtain.

It is the very fact that there is a range of possibilities under existing law that has led to the offering of this amendment.

Mr. President, it is true that the Energy Committee has held hearings on this. We have held hearings on it. I do not know of any subject that has been debated more extensively in the Energy Committee than this specific subject.

When the Energy Information Agency was created, we carefully wrote into law the results of all that debate and all that deliberation and the Senate approved it.

So if what we want to do is stick with what the Senate has approved, we should reject this amendment, because this is a change from what the Senate has already approved.

The Senate approved it. The House approved it. It came out of the conference and was signed into law by the President. The status quo would not be preserved. It would be changed.

As a matter of fact, I think it does not stretch the imagination to know that if it did not change something, there would be no point in the amendment.

It is always hard to know what the intention of the proponent might be. But it is obvious there can be only one purpose in the amendment, and that is to change what the status quo is.

So we are trying by the amendment to change what the existing fact is, in fact, of a different circumstance that would exist following the adoption of the amendment, if it were adopted.

The Federal Energy Administration Act is the primary vehicle for the information and it does not require the transfer to the FTC, that the Federal Energy Administration Act is incorporated into the DOE Organization Act. All that by action taken by the Congress prior to this.

I yield to the Senator from Washington if he has an inquiry he would like to make.

Mr. MAGNUSON addressed the Chair.

Mr. McCLURE. If he has a question.

Mr. MAGNUSON. No.

Mr. McCLURE. For that purpose.

Mr. MAGNUSON. We are trying to allow freedom of information for our antitrust agencies.

Mr. McCLURE. I appreciate what the Senator says because, of course, it is obvious——

Mr. MAGNUSON. The oil companies give information to the Department of Energy. We believe this same information should be available to our antitrust agencies.

I know what the oil companies are afraid of.

But all this does prevent the oil companies from giving improper information to the American public.

Mr. McCLURE. Mr. President, in answer to the inquiry of the Senator from Washington, let me simply state that I appreciate his statement that it is intended to change existing law and practice. It should not fly under false colors. I think it is intended to change existing law and practice.

The fact of the matter is that in the hearings and in the discussion in the Energy Committee, we very carefully examined whether this kind of provision would enhance the flow of information or whether it would restrict it. The considered opinion of the authorizing committee was that such a provision would restrict the flow of information that was legitimately useful to the Government in administering energy programs because it would immediately make available information which is useful to the Government internally for purposes unrelated to the legitimate request for the information.

It is a little like saying in this instance, "All right, let's open all your income tax files because other agencies of Government would like to look at that information for other reasons."

It is not quite a fair analogy. But the instinctive reaction of many is similar.

Mr. MAGNUSON. Will the Senator yield?

Mr. McCLURE. I am happy to yield.

Mr. MAGNUSON. The amendment agrees in advance to provide the same protection from public disclosures as provided by the DOE.

The antitrust agencies get the information. But the oil companies get the same protection. That is what the amendment is very careful to provide.

Mr. McCLURE. I say to my friend that there is a great argument that has gone on for years as to what is proprietary information, which it cannot require them to give, that there are all classes of information, some of which they would give voluntarily for one governmental purpose, but which they would not give and should not be required to give for other governmental purposes.

Once we open the process to the kind of information transfer which is suggested by this amendment, we immediately restrict the opportunities for the agencies of government to get the information for other purposes, and we will inhibit the ability of the Department of Energy to get the information through the Federal Energy Information Administration and to use it within the Department of Energy for the energy program evaluation and trust which they desire to have if this is amended.

It is just going to cut off that flow of information. Rather than having more information available to Government, we might well have less information available to Government.

It is that kind of weighting of legitimate public interests that is best handled not in the amendment on the floor in a situation like this, but in the authorizing committee, in hearings and markup that have been conducted day after day after day in the past in the Energy Committee.

It is for that reason that I appear to oppose the amendment.

The Department of Energy has concluded and the Energy Committee has concurred that transfer automatically to the Federal Trade Commission for regulatory purposes would have a significant effect, a chilling effect, on the voluntary compliance with information requests made to the industry that are necessary for research and development, for supply and demand information, and for policy-related information that now, routinely, the Department of Energy requests of energy companies, which is routinely and voluntarily supplied to the Department of Energy, on a voluntary basis.

It is that relationship that this amendment would destroy. It is that relationship which has led the Department of Energy in the past to refuse to comply with the requests or accede to the requests of the Federal Trade Commission for the very information which this amendment would require.

I think the Senator from Washington knows that the Department of Energy is

very strongly opposed to this kind of amendment.

I think for us here on the floor of the Senate, with no more opportunity for discussion than we have here today——

Mr. MAGNUSON. Why?

Mr. McCLURE. For the very reason, I say to the Senator from Washington——

Mr. MAGNUSON. They want to keep it all to themselves.

Mr. McCLURE. I say to the Senator from Washington, the Department of Energy is opposed to this amendment for the very reasons I have been giving here.

Mr. MAGNUSON. They want to keep information all for themselves and not inform the public.

Mr. McCLURE. I say to my friend from Washington, he is entirely wrong on that.

The Department of Energy has consistently said under the current Secretary, under the past Secretary, that to adopt this kind of statutory language would inhibit their ability to get the information they need.

It is not so much a matter of helping the FTC as hurting DOE.

If you want to have effective information flowing into DOE in order to get the information they have to have to direct the energy programs of this country, pass this amendment, and you will inhibit that process. That is what the argument is all about.

I do not mean to monopolize the time, and I will be happy to yield to the Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I would like to get the floor in my own right.

Mr. McCLURE. Before doing that, I would like to make certain that I have enough time to get a colloquy into the RECORD.

Mr. KENNEDY. I will be glad to do that, if I can have 5 minutes.

Mr. President, I ask unanimous consent that the Senator from Idaho be recognized at 5 minutes to 5.

The PRESIDING OFFICER. Is there objection?

Mr. STEVENS. Mr. President, reserving the right to object, what is the request?

Mr. KENNEDY. That the Senator from Idaho be recognized at 5 minutes to 5. He is going to yield the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, very briefly, in the final few moments of this discussion, we are not, by this particular amendment, granting to the Federal Trade Commission any new authority that does not already exist. That is important to understand. The way it has been presented here by some of those in opposition to this amendment, it would suggest that we are trying to provide new authority. We are not. We are trying to insure that the law is going to be enforced. We are trying to eliminate some of the redtape.

We hear a great deal on this floor about the duplication of governmental processes. The Federal Trade Commission has certain authority, the Justice Department has certain authority, and the Department of Energy has certain authority, and industry has to respond to all of them.

It is clear under the FEA program adopted in 1974 that "under the provisions of confidential information"—and the purpose of this amendment is not to make information public. It is for law enforcement purposes, to maintain confidentiality, the way the Department of Energy does, but also to consider it from a law enforcement point of view.

It is very clear in the 1974 act that, on the disclosure, upon request, any delegate of the Federal Energy Administration, for the purpose of carrying out this chapter and the Energy Petroleum Allocation Act of 1973, the Attorney General, the Secretary of the Interior, and the Federal Trade Commission—and the Federal Trade Commission.

In the Coal Conversion Act of 1977, I offered an amendment which reads:

> Any energy information acquired, collected and held by the Department of Energy which is subject to the requirements of section 11(d) of the Act of 1974—

That incorporated the language which was accepted on the floor of the Senate of the United States, without debate.

All we are asking here is for the Department of Energy, which has failed to comply with that law since 1974, failed to comply with the law of 1977, to do what the Senate of the United States has required them to do by law for the past 5 years.

Mr. President, it seems to me that if we are going to develop and fashion an energy program and if we are going to expect that the laws are going to be complied with, in order to protect consumers from overcharges and many other violations which have come to the fore, the Magnuson amendment would be an important protection for the consumers.

I fail to see the chilling effect. What is chilling is the fact that the consumers will be chilled this winter because of our failure to take action here in the development of a sensible and responsible energy program.

Mr. President, I hope that the amendment of the Senator from Washington will be accepted, and I urge the Senate to support it.

The PRESIDING OFFICER. Who yields time?

Mr. MAGNUSON. I yield back the remainder of my time.

Mr. STEVENS. Mr. President, is any time remaining on this amendment?

Mr. HUDDLESTON. Yes. We can go to 5 o'clock.

Mr. STEVENS. Mr. President, a parliamentary inquiry. Is there any time on the amendment?

Mr. JOHNSTON. Mr. President, would it be in order at this time to propound a unanimous-consent request with respect to the Magnuson amendment?

Mr. STEVENS. I would like 1 minute on this amendment, if I may.

The PRESIDING OFFICER. The Senator from Alaska has the time.

Mr. STEVENS. I yield myself any time that I have.

The PRESIDING OFFICER. The Senator has 2 minutes and 1 second.

Mr. STEVENS. Mr. President, the problem with this amendment is the perennial problem, and I do not mean to take umbrage with my good friend from Washington. However, we are constantly saying that items such as this should not come up extraneous to the subject matter in the bill that is before us.

I think it is a far-reaching amendment, and obviously the Senator from Massachusetts does not think so. I believe it is an amendment that should be considered at length. It amounts to legislation on an appropriations bill. We have nothing in this bill pertaining to the FTC, nothing pertaining to the Department of Justice. We are not the experts in this area. We are not the people who have dealt with this subject, and I do not believe it should be in this bill.

While I might support it in another context, I cannot support it as the ranking Republican on this subcommittee, because I think these bills are too loaded down with extraneous matters now.

I say that with all due respect for our chairman. It is not a subject that should be brought up on an appropriations bill, particularly one that does not cover the subject matter of the agency involved, which is the FTC in this instance.

The PRESIDING OFFICER. Under the previous order, the Senator from Idaho is recognized.

Mr. DOMENICI. Mr. President, will the Senator yield 1 minute?

Mr. McCLURE. I yield 1 minute to the Senator from New Mexico, without losing my right to the floor.

Mr. DOMENICI. Mr. President, first, I commend the Senator from Idaho for resisting this amendment.

I hope the Senate does not take seriously the argument of the Senator from Massachusetts that this bill is motivated by an intent to cut redtape. This bill is motivated by the fact that the Federal Trade Commission has been unable to get certain information that it wants.

We come here on an appropriations bill and say to a new agency of the Government, which we just set up a few months ago to collect information for the American people, "You are not going to be able to collect that unless you agree to give it to the Federal Trade Commission and the Justice Department, because you won't have any money to spend."

That is not a way to cut redtape. That is the way to use an appropriations bill to get what somebody cannot get through an authorizing committee of the Senate. That is what it is, plain and simple. It is not a matter of cutting redtape. It is a way to supply the Federal Trade Commission with more information, when it does not know what to do with what it is getting.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the time I take now not be charged against the Senator from Idaho.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. McCLURE. I yield to the Senator, with that understanding.

Mr. ROBERT C. BYRD. Mr. President, under the order that was entered,

Mr. DURKIN was permitted to make a point of order against one of the committee amendments, and there was to be a 30-minute limit on that, to be equally divided.

Mr. DURKIN and Mr. JOHNSTON have been consulting, and they are willing to forego the point of order, provided the consent order can be modified in such a way as to allow Mr. JOHNSTON to call up an amendment on Thursday, following the disposition of the Javits amendment or the Metzenbaum amendment, whichever happens to be the case at that point, and that before final passage of the bill, Mr. JOHNSTON be permitted to call up an amendment, and that there be a time limitation thereon of 10 minutes, to be equally divided, in accordance with the usual form.

Mr. JOHNSTON. And that no point of order would lie against that amendment.

Mr. ROBERT C. BYRD. And that no point of order would lie against that amendment.

Mr. STEVENS. Mr. President, reserving the right to object—and I do not think I shall object—I will be interested to hear the reason for not having a point of order lie against the amendment.

Originally, the two managers of this bill had time to yield to Senators whom we knew had amendments. I had time that I intended to use to take care of an amendment to be offered by Senator PRESSLER. He had given us notice that he intended to raise this, but unfortunately, in terms of the discussion as it has developed, I do not have time to yield to Senator PRESSLER.

Can there be an understanding, if we are going to take care of that amendment which we knew about, that we also can have at least 10 minutes on a side for Senator PRESSLER.

Mr. ROBERT C. BYRD. I add to my unanimous-consent request the proviso that Mr. PRESSLER be recognized for not to exceed 10 minutes on an amendment he would call up, immediately following the disposition of the Johnston amendment, and with the understanding that 10 minutes on the Pressler amendment will be allotted to Mr. HUDDLESTON.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. ROBERT C. BYRD. Just prior to third reading and final passage on Thursday.

Mr. STEVENS. Did that include the provision with respect to no point of order for the Senator from Louisiana?

The PRESIDING OFFICER. The Senator is correct.

Mr. STEVENS. May I have an explanation? Is that to be a substitute for the Senator's entitlements provision in the bill?

Mr. JOHNSTON. Yes. This is to be a substitute. There is presently in the bill a provision which prevents the administration from raising entitlements to above 30 percent on residual or other products, without making it subject to a one-House veto. The same type of provision was in the bill last year. A point of order was raised. The Senate voted with me on the question of germaneness.

So we have precedent for the question of germaneness being settled by the Senate.

Mr. STEVENS. My question really was whether the Senate was going to add to the existing provision. It is a substitute to the existing provision.

Mr. JOHNSTON. It is a substitute to prevent entitlements changed from the 50-percent level.

Mr. STEVENS. I thank the Senator.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DANFORTH. Mr. President, will the majority leader entertain a question on scheduling?

Mr. ROBERT C. BYRD. Yes, if the Senator from Idaho will yield under the previous condition.

The PRESIDING OFFICER. The Senator from Idaho has the time.

Mr. McCLURE. I yield under the previous condition. That will leave me 4 minutes, I believe.

Mr. DANFORTH. Mr. President, at some point I wish about 5 minutes to engage in a colloquy with the managers of the bill. I am wondering when would be an appropriate time?

Mr. STEVENS. Mr. President, if the Senator will yield to me, it is my understanding under the order we already entered into, although there will be an equivalent of third reading following the series of votes, the colloquies we intend to have on this bill will be in order; is that not correct?

Mr. ROBERT C. BYRD. Mr. President, I make the unanimous-consent request now that following the disposition of the Byrd amendment tonight there be not to exceed up to 30 minutes for colloquies, the time to be equally divided between Mr. HUDDLESTON and Mr. STEVENS, but that the remaining part of the order be intact.

Mr. DOMENICI. Mr. President, reserving the right to object——

The PRESIDING OFFICER. Is there objection to the request?

Mr. DOMENICI. Yes, I reserve the right to object. I intend to raise a point of order on this amendment. I believe it is subject to rule XVI.

Nothing in the unanimous-consent request prevents that from happening, does it?

Mr. ROBERT C. BYRD. Nothing prevents that.

Mr. DOMENICI. I have no objection.

Mr. MAGNUSON. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. MAGNUSON. What is before the Senate?

The PRESIDING OFFICER. The amendment by the Senator from Washington is before the Senate.

Mr. MAGNUSON. I yield back the remainder of my time, and the time of 5 p.m. has arrived. There is no more time.

The PRESIDING OFFICER. The Chair will inform the Senator that under the previous unanimous-consent request the Senator from Idaho has 4 remaining minutes on the amendment.

Mr. McCLURE. Mr. President, the point has been raised that this is simply to further what has already been written into the statutes.

Let me just make this point, as we close this debate on this amendment, that there is a duplication of authority with respect to energy information. The FTC has its own authority, but that authority is for regulatory purposes and it is under the statute granting them authority. The Department of Energy has several different authorities to acquire information and several different reasons to acquire information, primarily under the Federal Energy Administration Act. The FEAA was then incorporated into the Department of Energy in the DOE Organic Act.

But I think the thing that is important to remember with the point the Senator from Massachusetts raised is that this is simply to comply with an act passed in 1974. That act was limited in its scope and DOE has been complying with that act to the extent they have information that is required of them that FTC is authorized to require or to get under the 1974 act. DOE is complying with it for the very reason that it is limited in scope.

The conflict arises because DOE has much broader authority than the FTC has; therefore, it looks like DOE is withholding information that is required to be given to the FTC. But it seems to me that it is important for us to remember that the responsibilities of the Department of Energy are substantially different than the responsibilities of the Federal Trade Commission and because of that difference in responsibilities they have been given different authority.

I think it is important for us, also, to remember what DOE does with many of these information requests that they make. They only get a sample, a sample from several different companies but not all of the companies that are involved. The result would be, if they gave it to the FTC, that those who had given that information might find that they are moved against by the FTC while other companies that were not required to give identical information would escape the scrutiny of the FTC. That is another reason why, Mr. President, it seems to me to be wrong for us at this time in this forum on this appropriation measure to seek to change the law that applies to the Department of Energy and not to the Federal Trade Commission.

I think the most important factor to remember in all of this is that because it would have a chilling effect upon the voluntary provision of information DOE would be hampered in its efforts to administer the law which it has the responsibility to administer and the Federal Trade Commission would not be enhanced in its ability to meet its own needs for information. Rather it would simply cripple DOE without helping the Federal Trade Commission.

Mr. President, I yield to the Senator from New Mexico.

Mr. DOMENICI. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. DOMENICI. How much time does the Senator from Idaho have remaining?

The PRESIDING OFFICER. The Senator has 31 seconds remaining.

Mr. DOMENICI. Mr. President, as I indicated, I am going to make a point of order that this amendment is legislation on an appropriation bill under rule XVI, and I really think that the Senate should seriously consider this one.

Obviously when the Senate will not act, when a committee will not have a hearing, when a committee will not take legislative action, we are frequently forced to come down here and legislate on appropriations. But it is eminently clear that the Senate created an information agency and seriously considered this proposal and rejected it. Now to come down here to do it this way——

The PRESIDING OFFICER. The time has expired.

Mr. DOMENICI. I make the point of order that this amendment is out of order under rule XVI.

Mr. KENNEDY. Mr. President, I raise the issue of germaneness.

Mr. DOMENICI. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question of germaneness having been raised, under rule XVI, the Chair submits the question of germaneness to the Senate.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Hawaii (Mr. INOUYE), and the Senator from Illinois (Mr. STEVENSON), are necessarily absent.

The PRESIDING OFFICER. Have all Senators in the Chamber voted?

The yeas and nays resulted—yeas 35, nays 62, as follows:

[Rollcall Vote No. 361 Leg.]

YEAS—35

Baucus	Hollings	Nelson
Biden	Jackson	Pell
Bradley	Kennedy	Pryor
Bumpers	Levin	Ribicoff
Church	McGovern	Riegle
Cranston	Magnuson	Sarbanes
Culver	Mathias	Sasser
DeConcini	Matsunaga	Stewart
Durkin	Melcher	Stone
Eagleton	Metzenbaum	Williams
Exon	Moynihan	Zorinsky
Hart	Muskie	

NAYS—62

Armstrong	Glenn	Nunn
Baker	Goldwater	Packwood
Bellmon	Gravel	Percy
Bentsen	Hatch	Pressler
Boren	Hatfield	Proxmire
Boschwitz	Hayakawa	Randolph
Burdick	Heflin	Roth
Byrd, Harry F., Jr.	Heinz	Schmitt
Byrd, Robert C.	Helms	Schweiker
Cannon	Huddleston	Simpson
Chafee	Humphrey	Stafford
Chiles	Javits	Stennis
Cochran	Jepsen	Stevens
Cohen	Johnston	Talmadge
Danforth	Kassebaum	Thurmond
Dole	Laxalt	Tower
Domenici	Leahy	Tsongas
Durenberger	Long	Wallop
Ford	Lugar	Warner
Garn	McClure	Weicker
	Morgan	Young

NOT VOTING—3

Bayh	Inouye	Stevenson

The PRESIDING OFFICER (Mr. BAUCUS). On this vote, 35 Senators voted "yea," and 62 voted "nay." Therefore the amendment is held not to be germane.

The question of germaneness having been decided in the negative, the Chair now holds that the point of order is well taken under rule XVI insofar as it relates to legislation on the appropriation bill.

Mr. JOHNSTON. Mr. President, I move to reconsider the vote by which the question of germaneness was decided.

Mr. McCLURE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to proceed, now, for 1 minute.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

ORDER FOR CONSIDERATION OF THE CONFERENCE REPORT ON S. 1030 TOMORROW

Mr. ROBERT C. BYRD. I ask unanimous consent that tomorrow after the two leaders or their designees have been recognized under the standing order, the Senate proceed to the consideration of the conference report on S. 1030, the emergency energy conservation bill, that there be a 1-hour time limit on the conference report, overall, on amendments in disagreement, and on motions and/or amendments in relation thereto, the time to be equally divided between the Senator from New Mexico (Mr. DOMENICI) and the Senator from Washington (Mr. JACKSON).

Mr. BAKER. Mr. President, reserving the right to object, the reservation is not to object, but to advise the majority leader, as he knows, that this request is cleared on our side and we have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

DEPARTMENT OF INTERIOR APPROPRIATIONS, 1980

The Senate continued with the consideration of H.R. 4930.

UP AMENDMENT NO. 654

The PRESIDING OFFICER. The question now recurs on agreeing to the amendment offered by the Senator from Delaware (Mr. ROTH).

Mr. ROTH. Mr. President, I ask for the yeas and nays, and ask unanimous consent to proceed for 5 minutes.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. ROTH. Mr. President, the purpose of my amendment is to provide an efficiency cut——

The PRESIDING OFFICER. There is no time for debate on the amendment.

Mr. ROTH. Mr. President, may I have unanimous consent for 30 seconds?

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senator have 1 minute, and that the manager of the bill have 1 minute.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STENNIS. Mr. President, may we have order, so that we can hear the Senator?

The PRESIDING OFFICER. The Senator's observation is well taken. The Senate is not in order. The Senate will be in order.

Mr. ROTH. Mr. President, my amendment provides a 5-percent efficiency cut in the administrative and regulatory costs of the Department of Energy as provided in this bill. It will save the taxpayers $103 million, and I think would stimulate much needed management reforms in the Department of Energy.

I emphasize that it in no way affects programs for alternate fuels production, but it provides efficiency cuts to make this department more effective and more efficient.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. HUDDLESTON. Mr. President, we oppose the amendment on the basis that what is provided for in the legislation before us is there after long analysis, hearings, committee markup and full committee consideration. We have made cuts every place that we thought we could make cuts.

Mr. HART. Mr. President, the Senate is not in order.

The PRESIDING OFFICER. The Senate will be in order. The Senator will suspend until order is restored. All Senators who wish to converse will please retire from the Chamber. The Senator will not proceed until the Senate is in order.

The Senator from Kentucky may proceed.

Mr. HUDDLESTON. The bill reflects congressional priorities as they have been expressed to us in committee and as expressed by the Members of the Senate here on the floor. The one agency that is singled out by the distinguished Senator from Delaware, the Energy Regulatory Administration, has as one of its major objectives the analysis of all regulations, looking toward eliminating those that are not needed or overly burdensome, or serve no useful purpose.

It also deals with the applications that come from the service stations, applications which allocate the fuels in accordance with the allocation program.

So I do not think we need to make a major attack on that particular agency.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. HUDDLESTON. If I might continue for 10 seconds, I would indicate that the $19 million we added was in response to a $23 million amended request that came from the President after the House had acted upon this bill and had no opportunity to consider this matter. We oppose the amendment of the Senator from Delaware.

Mr. ROBERT C. BYRD. Mr. President, is this a 10-minute rollcall vote?

The PRESIDING OFFICER. The Senator is correct.

Mr. ROTH. Mr. President, I would point out that as far as the Economic Regulatory Administration is concerned, it represents a 49-percent increase in administrative costs, a 67-percent increase in fuel regulations, and a 44-percent increase for developing new regulations. I think we need less regulation rather than more.

The PRESIDING OFFICER. The question now recurs on the amendment of the Senator from Delaware. The yeas and nays have been ordered and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Hawaii (Mr. INOUYE), and the Senator from Illinois (Mr. STEVENSON) are necessarily absent.

The PRESIDING OFFICER. Have all Senators in the Chamber voted?

The result was announced—yeas 48, nays 49, as follows:

[Rollcall Vote No. 362 Leg.]

YEAS—48

Armstrong	Garn	Pressler
Baker	Goldwater	Proxmire
Bellmon	Gravel	Pryor
Biden	Hatch	Roth
Boren	Hayakawa	Schweiker
Boschwitz	Heinz	Simpson
Byrd, Harry F., Jr.	Helms	Stafford
	Humphrey	Stone
Chafee	Jepsen	Talmadge
Church	Kassebaum	Thurmond
Cochran	Laxalt	Tower
Cohen	Long	Wallop
Danforth	Lugar	Warner
Dole	McGovern	Weicker
Durenberger	Nelson	Zorinsky
Eagleton	Nunn	
Exon	Pell	

NAYS—49

Baucus	Cannon	Durkin
Bentsen	Chiles	Ford
Bradley	Cranston	Glenn
Bumpers	Culver	Hart
Burdick	DeConcini	Hatfield
Byrd, Robert C.	Domenici	Heflin
Hollings	Matsunaga	Sarbanes
Huddleston	Melcher	Sasser
Jackson	Metzenbaum	Schmitt
Javits	Morgan	Stennis
Johnston	Moynihan	Stevens
Kennedy	Muskie	Stewart
Leahy	Packwood	Tsongas
Levin	Percy	Williams
McClure	Randolph	Young
Magnuson	Ribicoff	
Mathias	Riegle	

NOT VOTING—3

Bayh	Inouye	Stevenson

So Mr. ROTH's amendment (UP No. 654) was rejected.

The PRESIDING OFFICER. The question now recurs on agreeing to the amendment of the Senator from Montana (Mr. MELCHER). (Putting the question).

Mr. MELCHER. Mr. President, I ask unanimous consent for 1 minute to describe the amendment.

I withdraw my request.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Montana.

The amendment was rejected.

● Mr. JEPSEN. Mr. President, I rise in opposition to the Byrd amendment to include $20 billion in the Interior appropriation for synthetic fuels. In the first place, we have not even passed authorizing legislation yet, which means that we are legislating on an appropriations bill in violation of Senate rules. Second, the Finance Committee has not yet completed action on the windfall profits tax bill, meaning that there is no revenue to spend really. Third, these expenditures are not provided for in the budget resolution. And lastly, I am opposed to a crash program to build synthetic fuel plants outside the context of an overall energy supply policy.

I fear that such a program will only waste the taxpayers' money on projects which the market has already rejected because the cost is too high. I much prefer a go-slow policy which carefully weighs the costs and benefits of a synfuel program against the costs and benefits of alternative energy policies, such as accelerated decontrol of oil and gas prices, encouragement of nuclear power, and other options.

Mr. President, I have spoken out on the issue of synthetic fuels before. My position is quite clear. I have nothing against development of synthetic fuels per se. If someone wants to get together their own money and go out and build a synthetic fuel plant it is fine with me. And I would support efforts to streamline the regulation process so that there are no unnecessary burdens placed in the path of synfuel development.

What I am opposed to, however, is Federal subsidies for synfuels, especially when we continue to discourage oil and gas production through price controls and place enormous obstacles in the path of coal and nuclear power production.

It is perfectly clear to me that the reason no one is building synfuel plants on their own is because it is presently impossible to manufacture synthetic oil or gas for less than it can be bought from conventional sources, including OPEC. Those who are such strong supporters of synfuels would have a lot more credibility with me if they put up some of their own money to manufacture synfuels instead of throwing taxpayers' money at it.

I ask unanimous consent that a table be prepared by the Congressional Research Service showing the estimated cost of production for various synthetic fuels. As one can see, the estimated costs for synfuels is far greater than prices currently paid for conventional fuels.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

SELECTED SYNFUELS TECHNOLOGIES THAT MIGHT BE COMMERCIALIZED UNDER THE PROPOSED "ENERGY TRUST FUND"[1]

Technology/Process	Estimated capital cost[2,3]	Plant output	Economic incentives allowed under existing law (July 1979)	Estimated price of product at plant[2,3]
A. Oil shale synfuels:				
Above ground oil shale processing retort/Tosco, Paraho, Union Oil Co. system.	$2 billion	50,000 barrels per day	Loan guarantees	$30 to $50 per refined barrel.
Multiple mineral oil shale processing/Superior Oil Co. system.	$2 billion	50,000 barrels per day	Loan guarantees	$25 to $45 per refined barrel.
Vertical modified in situ oil shale processing/Occidental Petroleum Corp.	$900 million	50,000 barrels per day	Loan guarantees	$25 to $45 per refined barrel.
B. Coal synfuels:				
Hi-Btu coal gasification/Lurgi	$2 to $2.5 billion	250 million cubic feet of gas	Loan guarantees, joint Federal industry cooperation, investment tax credits for synfuels.	$5 to $8 per mcf at plant gate.
Medium-Btu coal gasification/numerous processes available.	$250 million	75 billion Btu per day	Loan guarantees, cost sharing, investment tax credit for synfuels.	$4.75 to $6.50 per million Btu.
Low-Btu coal gasification/numerous processes available.	$4 to $5.5 million	1 billion Btu per day	Loan guarantees, cost sharing, investment tax credit for synfuels.	$4 per million Btu using $35 per ton coal.
Coal liquefication/possibly Fischer Tropsch	$2 to $2.5 billion for a syncrude plant.	50,000 barrels per day	Loan guarantees, guaranteed prices, purchase of products, investment tax credit for synfuels.	$35 to $50 per refined barrel at plant gate.

[1] For synfuel technologies, e.g., oil shale processing systems and coal synfuels systems, it is difficult to estimate the project and product costs. Many uncertainties are associated with the economics of technologies that have not yet been commericalized. Economic projections on synfuels technologies are likely to remain uncertain until several plants have operated and produced fuels on a reliable basis for a sufficiently long period of time. Because of these uncertainities, the number presented in this table should be considered to be "best guesses" and are subject to much uncertainty.

[2] All cost and price figures are in 1979 dollars and are assumed to represent costs as of the period of initial operation.

[3] "Best guess" estimates, prepared by Rothberg and Gushee.

Mr. JEPSEN. Mr. President, those who support a crash program to develop synthetic fuels will frequently agree that the per barrel cost of synthetic fuels is uncompetitive but assert that we should move forward anyway because it will reduce our balance-of-trade deficit. In my view, this is an extremely weak argument. In the first place, there is no evidence that a balance-of-trade deficit is the primary cause of the dollar's instability on foreign markets. And second, there is no evidence that oil imports are a factor in the dollar's decline either. Both Germany and Japan import higher percentages of OPEC oil than we do and yet they run balance-of-trade surpluses and have strong currencies and domestic economies. The cause of the dollar problem is that we are flooding the world with dollars. This is why I support the

recent actions by the Federal Reserve Board to stem the flow of dollars.

In conclusion, I will just say that I think this is a very bad way to legislate. Throwing $20 billion out there for unnamed synthetic fuel programs today, rather than waiting for an authorization bill, is not going to do anything to speed our Nation on its way to energy independence. It takes many years to build a synthetic fuel plant and it is going to take more than a decade to build enough of them to have a meaningful impact on energy supplies. Under the circumstances and considering the massive amount of dollars we are being asked to consider for synthetic fuels I think it is critical that we move slowly and carefully, lest we squander enormous amounts of money unnecessarily, while possibly foreclosing other cheaper, more effective alternatives.●

● Mr. DOLE. Mr. President, the Senator from Kansas realizes the need our country has for developing a domestic synthetic fuels program. We need to break our dependence on OPEC oil while we still can.

Notwithstanding this crucial need, we must not rush to judgments by riding roughshod over the proper legislative mechanisms needed to authorize such a program.

Mr. President, synthetic fuel proposals are now pending before several Senate committees. The Finance Committee, of which I am the ranking minority member, is currently wrestling with the so-called windfall profits tax legislation. This complex issue of taxing energy revenues is directly related many of the issues discussed today.

While these committees are addressing this problem in a reasonable fashion, the distinguished Senator from West Virginia, Mr. BYRD, is asking us to bypass this venerable process and to rush headlong and headstrong into making energy policy through the amendment process on the floor of the Senate.

Mr. President, I do not intend to demean the amendment before us as being frivolous, but I do think it important to address this disturbing process of policy through amendments to unrelated measures.

It is particularly disturbing when a sum as large as $20 billion is at stake.

Mr. President, at a time when the projected Federal budget deficit during fiscal year 1979 is higher than $30 billion, and with the subsequent inflation such a deficit brings, we cannot afford to throw away $20 billion on questionable or for that matter unauthorized energy projects. I am constrained to ask just what are these projects we are funding today? Where are the plans? We have not seen them. I have not seen them and I would conjecture that some of my colleagues have not either. We are being asked to spend $20 billion to buy something which is totally uncertain, unauthorized, and undisclosed.

The Carter administration has treated us to a host of simplistic and hasty "solutions" to the energy crisis. And with each new solution, the American people are told it is the ultimate solution. Recent history has shown this not to be the case. However, 2 years ago, the administration induced us to create the multi-billion-dollar Department of Energy—a bureaucratic nightmare which has given us a roadmap to redtape. I am pleased to support the amendment of my able colleague from Delaware, Mr. ROTH, which would cut the DOE appropriations by 5 percent. This is the route we should take: Cutting back bureaucratic spending, not adding to it.

Mr. President, the issue is not whether we should develop a synthetic fuels program, but rather who should develop it, and how. Should we have a free market approach or a governmental bureaucratic approach? The Senator from Kansas feels that the free market approach is the only reasonable one, and has voted accordingly in the Finance Committee during deliberations on the windfall profits tax legislation. The so-called Energy Security Corporation, which would be just another Government bureaucracy, poses serious threats to the free enterprise system. The Senator from Kansas must say at this point that I am not totally opposed to some governmental involvement, but it must be peripheral at best. It is this very issue which the Energy Committee is addressing in its present hearings and which the Byrd amendment seeks to avoid by simply appropriating a lump sum of $20 billion; most of this money to be put on the shelf for whatever purpose comes along.

The U.S. Congress and the Federal Government are establishing their biggest accumulation of power in decades, all in the guise of producing more energy. First we had the Department of Energy, then we had the Energy Mobilization Board and today we have an alternative fuels program with no substance.

Furthermore, Mr. President, the issue of adequate incentives and capital formation necessary for private business to develop new synfuels is very complex and is not being addressed by this amendment to the Interior bill.

Mr. President, the Senator from Kansas is concerned that this amendment could set a dangerous precedent, by sanctifying the principle of "appropriating before authorizing." Yesterday's vote on the question of germaneness, was close enough to raise serious questions as to whether we should be considering this amendment at all today. However, we feel about the question of germaneness, that it is not the real issue. The real issue is whether we should adopt a dangerous precedent of "appropriating before authorizing." Let no man say that the slogan "energy now" should obliterate the question of "at what price?" Let no one think that waving the magic wand of Federal expenditure will produce instant energy. This approach may produce nothing more than a mountain of redtape, coupled with additional requests for funds to unravel the tape.

There are those who argue that this proposed $20 billion is not an "expenditure" but rather an "investment." But the Senator from Kansas is once again constrained to ask, "an investment in what?" We simply do not know yet. Recent disclosures of massive wastage of Federal money by the GSA, HEW, the Department of Energy and other Federal bureaucracies raise serious questions about the intelligence and integrity and wisdom of injecting newly appropriated funds into the Department of Energy account.

Arguing that our voting to appropriate these funds is a serious "commitment" by the U.S. Congress, is clouding the issue. We must be shown evidence that this money will be spent on projects based on sound technology, not the mere pipe dreams and fantasies of some DOE bureaucrat. We need to act on the total energy question, but we need to act responsibly on a comprehensive synfuels program, including the proper tax incentives, and private sector initiatives which when combined will produce energy on a cost-effective basis.

The administration would have us believe that creating new bureaucracies, inventing new names for them, and appropriating more Federal money will produce "energy now." But the point is that Mr. Carter has consistently failed to address himself to the main cause of our energy crisis—OPEC.●

The PRESIDING OFFICER. The question now recurs on agreeing to the amendment of the Senator from West Virginia (Mr. ROBERT C. BYRD). The yeas and nays have been ordered.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Hawaii (Mr. INOUYE), and the Senator from Illinois (Mr. STEVENSON) are necessarily absent

The PRESIDING OFFICER (Mr. LEAHY). Have all Senators who wish to vote voted?

The result was announced—yeas 59, nays 38, as follows:

[Rollcall Vote No. 363 Leg.]

YEAS—59

Baker	Glenn	Pell
Baucus	Heflin	Pressler
Bellmon	Hollings	Pryor
Bentsen	Huddleston	Randolph
Biden	Jackson	Ribicoff
Boren	Javits	Riegle
Bradley	Johnston	Sarbanes
Burdick	Kennedy	Sasser
Byrd, Robert C.	Levin	Stennis
Cannon	Long	Stevens
Chiles	Magnuson	Stewart
Church	Matsunaga	Stone
Cranston	Melcher	Talmadge
Danforth	Metzenbaum	Thurmond
DeConcini	Morgan	Tsongas
Domenici	Moynihan	Warner
Durkin	Muskie	Williams
Eagleton	Nelson	Young
Exon	Nunn	Zorinsky
Ford	Packwood	

NAYS—38

Armstrong	Gravel	McClure
Boschwitz	Hart	McGovern
Bumpers	Hatch	Mathias
Byrd, Harry F., Jr.	Hatfield	Percy
Chafee	Hayakawa	Proxmire
Cochran	Heinz	Roth
Cohen	Helms	Schmitt
Culver	Humphrey	Schweiker
Dole	Jepsen	Simpson
Durenberger	Kassebaum	Stafford
Garn	Laxalt	Tower
Goldwater	Leahy	Wallop
	Lugar	Weicker

NOT VOTING—3

Bayh	Inouye	Stevenson

So the amendment of the Senator from West Virginia (UP No. 642), as amended, was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HUDDLESTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. McCLURE. Mr. President, as a member of the Interior Subcommittee, I think it appropriate to rise in support of H.R. 4930, especially in view of the difficulties we have had this year not the least of which has been having to deal with a complex myriad of legislative proposals in the synfuels area.

I was especially pleased that the committee saw fit to hold hearings in August in response to extreme unrest in the West resulting from grazing reductions and other land and resource management actions that are adversely affecting many citizens and especially small ranchers. I wish to commend the subcommittee chairman for his extreme patience and understanding of our difficulties and I think it is a tribute to his fairness and his unfailing courtesy that he allowed these hearings to be held on such short notice. The activities which occurred out West in August contributed much to the committee's records regarding the so-called "sagebrush rebellion" which has occurred there and the committee has followed up by taking action which should do much to mitigate the difficulties that exist.

Under the circumstances I think this committee has come to the floor with a bill which we can all be very proud of. Although we are some $15.5 billion over appropriations for fiscal year 1979, it is significant to note that we would be well below funding for fiscal year 1979 if it were not for the need to fund a synfuels effort.

Finally, I think it appropriate to extend a special commendation to our ranking minority member, TED STEVENS, who along with the subcommittee chairman deserve the highest praise for their responsiveness to the requests and needs of all subcommittee members and indeed all members of the Senate, of which there are many who are concerned with this bill.

WILSON'S CREEK FUNDING

Mr. DANFORTH. Mr. President, funding for the completion of Wilson's Creek National Battlefield project was reduced from $1,395,000 to $462,000 by the Senate Appropriations Committee, due to the last minute request of the Department of the Interior. This money has been transferred to another project without explanation, even though full funding is provided by the House.

In 1960, President Eisenhower signed the bill designating Wilson's Creek Battlefield a National Battlefield, and its completion has been a principal goal in Southern Missouri for more than 30 years.

Phase I, for which $1.6 million already has been appropriated, includes maintenance facilities; water and sewage plants; road relocation; an entrance road and parking; and a picnic area. Phase I has been put to bid, and the low bidder is a Springfield, Mo. contractor, Luther L. Essary Construction Company. The Denver Service Center of the National Park Service is awaiting receipt of the contractor's performance bond to award the contract on phase I of the project.

The original appropriation request of the Department of the Interior for phase II of the project was $1.395 million. This phase includes the construction of a solar powered visitors center. The plans and specifications for phase II are currently scheduled to leave the offices of the contract engineers in Kansas City, Mo. for the Denver Service Center, where they will be reviewed, and a bidding document developed. Phase II could be put to bid late this fall, and a contract awarded by December 1, 1979.

The proposed reduction of funding for phase II of the Wilson's Creek Battlefield Project is unfortunate. More than half of the total funding for the project is already committed. The administration has provided no explanation for its change to the original budget recommendation. The Federal Government has been interested in Wilson's Creek Battlefield since the late 1800's, and various historical groups in Missouri have persevered for more than 30 years in their efforts to obtain Federal funding for this project.

It is not my intention to seek to add funds to this bill, nor do I want to get into an argument over project reductions on other projects to make room for this project. What I would like is the assurance of the managers of the bill that in conference they will take a careful look at the merits of this project with an eye toward retaining the level of funding provided for in the House version of this bill.

Mr. STEVENS. Mr. President, I know my good friend from West Virginia, the chairman of our subcommittee, is here, but the Senator from Kentucky (Mr. HUDDLESTON) and I have handled this portion of the bill, and what the Senator from Missouri states is correct. Long after the budget was submitted the Department requested us to change the money allocated within the Park Service construction account, as the Senator from Missouri has indicated.

There was no implied lack of support for the project he mentions. It was just that the Park Service had a priority item that they sent up, and rather than get additional clearance for funds, they asked us, in effect, to reprogram right in the bill for a more pressing need somewhere in Massachusetts—Lowell, Mass., I recall, and it was done.

I assure the Senator, and Senator HUDDLESTON has asked me to assure the Senator, that the matter will be in conference. We will give every consideration to the original priority that was set for us in the budget and we are hopeful we will be able to follow the Senator's request and restore the money.

Mr. DANFORTH. I very much appreciate the assurance of the Senator from Alaska.

Mr. STEVENS. Mr. President, to my knowledge, the other colloquies that were to be considered at this time have previously have been considered and are a matter of record, and I know of no other requests, either to the Senator from Kentucky or to me for time on the bill, and unless there is a request for time on the bill itself I yield back on behalf of the Senator from Kentucky and myself the remainder of the time on the Interior appropriation bill.

Mr. McCLURE. Would the Senator from West Virginia, Mr. BYRD, yield for the purpose of clarifying a point relating to the Interior Appropriations Bill Report No. 96-363.

Mr. ROBERT C. BYRD. I would be happy to yield for that purpose.

Mr. McCLURE. I thank the Senator. I call to the attention of the members of the Interior Subcommittee of the Senate Appropriations Committee the language on page 38 of Report No. 96-363 relating to the helium fund.

At the Appropriations Committee markup of the fiscal year 1980 Interior bill on October 11, the committee accepted my report language on the helium fund. Unfortunately, there is a mistake in the language as it appears in this committee report.

The language which the committee adopted reads as follows:

The committee recommends the rescission of $47,500,000 in contract authority for helium purchases provided annually by permanent legislation. Under present Federal policy this authority is not being exercised since current Federal reserves are deemed to be adequate for immediate Federal requirements. There will, however, be an increasing need for helium for advanced energy technologies beginning in the time period 1990-2000, with shortages of helium beginning sometime in the 21st century. The appropriate authorizing committee should review the existing helium conservation program with emphasis on meeting future national helium needs. Expenditures of billions of tax dollars for energy research and development programs could be wasted for lack of helium. It is critical that the Congress not foreclose any potential solution to our energy problem because of a lack of foresight with respect to this critical element.

Mr. ROBERT C. BYRD. The Senator is correct. That is the language which was accepted by the Appropriations Committee. Mr. President, let the record show that this was the language adopted by the Appropriations Committee relating to the helium fund, as directed in Report No. 96-363.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, I wish to call the attention of the floor managers of the bill to the provision that funds the design of two desalting demonstration plants, under the Office of Water Research and Technology. This is the program authorized by section 2 of Public Law 95-84, as amended by Public Law 95-467. Page 12 of the committee report states that the money included in this bill will accelerate design of the two selected plants—one at Virginia Beach, Va., and one at Alamogordo, N. Mex.

While I am disappointed that the committee did not recommend the House figure of nearly $1.2 million for this program, I recognize the need for restrain-

ing spending, together with the likelihood that funds over and above the committee's recommendation of $814,000, could not be spent in fiscal year 1980.

Because of the great importance that a national program to demonstrate effective desalting techniques offers as a way to expand national supplies of usable water, I appreciate the consideration and high priority given to the desalting demonstration program by the committee. In that context, I would like to ask several questions of the floor manager.

First, is it accurate that the sums included in the bill for desalting demonstration plants—$814,000—are expected to complete all the preconstruction work for both the Alamogordo and Virginia Beach plants, and that this pre-construction work is expected to be completed in fiscal year 1980?

Mr. ROBERT C. BYRD. Yes, that is correct.

Mr. DOMENICI. Is it also correct that it is the committee's intent that the Office of Water Research and Technology shall submit to the Congress, at the earliest date possible, the required report on the proposed projects, and that this submission must not be delayed or used as a hostage to discussions over cost-sharing or other proposed changes in the existing law?

Mr. ROBERT C. BYRD. The Senator is correct.

Mr. DOMENICI. Finally, is it correct that the committee intends to go forward in fiscal year 1981 with the construction of these two plants, presuming no major technical difficulties, and that construction is expected to be funded?

Mr. ROBERT C. BYRD. The Senator is correct.

Mr. DOMENICI. I thank the distinguished majority leader and floor manager for this bill, Mr. ROBERT C. BYRD, for the great work and attention that he and the ranking minority member on the subcommittee, Mr. STEVENS, are giving to this program.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business, not to extend beyond 30 minutes, and that Senators may speak therein up to 5 minutes each.

Mr. DANFORTH. Mr. President, reserving the right to object, it was my understanding that we would have some period of time to proceed on this bill with colloquy. Am I mistaken?

Mr. ROBERT C. BYRD. The Senator is correct.

Mr. President, I ask unanimous consent that the period for routine morning business be 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORITY FOR ANNUAL RATES OF COMPENSATION OF EMPLOYEES OF THE SENATE UNDER CONTINUING RESOLUTION

Mr. ROBERT C. BYRD. Mr. President, for the RECORD, I am submitting the order of the President pro tempore of the Senate effecting the authority for annual rates of compensation of employees of the Senate under the recently-enacted continuing resolution.

The order follows:

ORDER

U.S. SENATE,
Office of the President pro tempore.

By virtue of the authority vested in me by section 4 of the Federal Pay Comparability Act of 1970, it is hereby—

Ordered,

CONVERSION TO NEW MULTIPLE

SECTION 1. (a) Except as otherwise specified in this Order or unless an annual rate of compensation of an employee whose compensation is disbursed by the Secretary of the Senate is adjusted in accordance with the provisions of this Order, the annual rate of compensation of each employee whose compensation is disbursed by the Secretary of the Senate is adjusted to that multiple of $202 which is nearest to but not less than the rate such employee was receiving on October 1, 1979, immediately prior to the application of this Order.

(b) For purposes of this Order—

(1) "employee" includes an officer other than a United States Senator and other than the Senate Legal Counsel and Deputy Senate Legal Counsel); and

(2) "annual rate of compensation" does not include longevity compensation authorized by section 106 of the Legislative Branch Appropriation Act, 1963, as amended, merit compensation authorized by section 109 of the Legislative Branch Appropriation Act, 1979, or any other additional compensation that may hereafter be authorized by law.

RATE INCREASES FOR SPECIFIED POSITIONS

SEC. 2. The annual rates of compensation of the Secretary of the Senate, the Sergeant at Arms and Doorkeeper, and the Legislative Counsel (as such rates were increased by prior orders of the President pro tempore) are further increased by 6.87 percent and, as so increased, adjusted to the next higher multiple of $202. Notwithstanding the provisions of this subsection, an individual occupying a position whose annual rate of compensation is determined under this subsection shall not be paid at any time, by reason of the promulgation of this Order, at an annual rate in excess of either of the following: (1) the annual rate in effect for positions in level III of the Executive Schedule under section 5314 of title 5, United States Code, or (2) an annual rate of compensation which is $1,000 less than the annual rate of compensation of Senators.

(b) The annual rates of compensation of the Secretary for the Majority and the Secretary for the Minority (as such rates were increased by prior orders of the President pro tempore) are further increased by 6.87 percent and, as so increased, adjusted to the next higher multiple of $202. Notwithstanding the provisions of this subsection, an individual occupying a position whose annual rate of compensation is determined under this subsection shall not be paid at any time, by reason of the promulgation of this order, at an annual rate of compensation in excess of $500 less than the annual rate of compensation which is now or may hereafter be in effect for those positions referred to in subsection (a) of this section.

(c) The annual rates of compensation of the five Senior Counsels in the Office of the Legislative Counsel and the maximum annual rates of compensation of the Assistant Secretary of the Senate, the Parliamentarian, the Financial Clerk, the Assistant to the Majority Leader for Floor Operations, and the Assistant to the Minority Leader for Floor Operations (as such rates were increased by prior orders of the President pro tempore) are further increased by 6.87 percent and, as so increased, adjusted to the next higher multiple of $202. Notwithstanding the provisions of this subsection, an individual occupying a position whose annual rate of compensation is determined under this subsection shall not be paid at any time, by reason of the promulgation of this Order, at an annual rate of compensation in excess of $1,000 less than the annual rate of compensation which is now or may hereafter be in effect for those positions referred to in subsection (a) of this section.

(d) (1) The maximum annual rate of compensation of the Director of the Office of Classified National Security Information in the Office of the Secretary of the Senate (as such rate was increased by the prior order of the President pro tempore) is further increased by 6.87 percent and, as so increased, adjusted to the next higher multiple of $202. Notwithstanding the provisions of this paragraph, an individual occupying the position whose annual rate of compensation is determined under this paragraph shall not be paid at any time, by reason of the promulgation of this order, at an annual rate of compensation in excess of the next lowest multiple of $202 which is at least $2,000 less than the annual rate of compensation which is now or may hereafter be in effect for those positions referred to in subsection (a) of this section.

(2) The maximum annual rate of compensation of the Special Deputy to the Federal Elections Commission in the Office of the Secretary of the Senate (as such rate was increased by prior orders of the President pro tempore) is further increased by 6.87 percent and, as so increased, adjusted to the next higher multiple of $202. Notwithstanding the provisions of this paragraph, an individual occupying the position whose annual rate of compensation is determined under this paragraph shall not be paid at any time, by reason of the promulgation of this Order, at an annual rate of compensation in excess of the next lowest multiple of $202 which is at least $2,500 less than the annual rate of compensation which is now or may hereafter be in effect for those positions referred to in subsection (a) of this section.

(3) The maximum annual rates of compensation of the seven Reporters of Debates in the Office of the Secretary of the Senate (as such rates were increased by prior orders of the President pro tempore) are further increased by 6.87 percent and, as so increased, adjusted to the next higher multiple of $202. Notwithstanding the provisions of this paragraph, an individual occupying a position whose annual rate of compensation is determined under this paragraph shall not be paid at any time, by reason of the promulgation of this Order, at an annual rate of compensation in excess of the next lowest multiple of $202 which is at least $4,300 less than the annual rate of compensation which is now or may hereafter be in effect for those positions referred to in subsection (a) of this section.

(4) The maximum annual rates of compensation of the Legislative Clerk (as long as that position is occupied by the present incumbent) and the Assistant Parliamentarian in the Office of the Secretary of the Senate are increased by 6.87 percent and, as so increased, adjusted to the next higher multiple of $202. Notwithstanding the provisions of this paragraph, an individual occupying a position whose annual rate of compensation is determined under this paragraph shall not be paid at any time, by reason of the promulgation of this Order, at an annual rate of compensation in excess of the next lowest multiple of $202 which is at least $5,100 less than the annual rate of compensation which is now or may hereafter be in effect for those positions referred to in subsection (a) of this section.

CHAPLAIN'S OFFICE

SEC. 3. The annual rate of compensation of the Chaplain and the maximum annual rate of compensation for the position of secretary to the Chaplain are increased by 6.87

percent and, as so increased, adjusted to the next higher multiple of $202.

OFFICES OF THE SENATE

SEC. 4. (a) The maximum annual rates of compensation for positions or classes of positions (other than those positions referred to in sections 2 (c) and (d) of this Order) under the jurisdiction of the Secretary of the Senate and the Sergeant at Arms and Doorkeeper are increased by 6.87 percent and, as so increased, adjusted to the next higher multiple of $202.

(b) The following individuals are authorized to increase the annual rates of compensation of the employees specified by 6.87 percent and, as so increased, adjusted to the next higher multiple of $202.

(1) the Vice President, for any employee under his jurisdiction;

(2) the President pro tempore, for any employee under his jurisdiction;

(3) the Majority Leader, the Minority Leader, the Majority Whip, and the Minority Whip, for any employee under their respective jurisdictions;

(4) the Majority Leader and the Minority Leader, for the Assistant to the Majority Leader for Floor Operations and the Assistant to the Minority Leader for Floor Operations, respectively (subject to the provisions of section 2(c) of this Order);

(5) the Secretary of the Conference of the Majority and the Secretary of the Conference of the Minority, for any employee under their respective jurisdictions;

(6) the Secretary of the Senate, for any employee under his jurisdiction (subject to the provisions of sections 2 (c) and (d) of this Order);

(7) the Sergeant at Arms and Doorkeeper, for any employee under his jurisdiction;

(8) the Chaplain, for his secretary;

(9) the Legislative Counsel, subject to the approval of the President pro tempore, for any employee under his jurisdiction (other than the five Senior Counsels);

(10) the Senate Legal Counsel, for any employee under his jurisdiction (subject to the provisions of section 701(b) of the Ethics in Government Act of 1978).

(11) the Secretary for the Majority and the Secretary for the Minority, for any employee under their respective jurisdictions; and

(12) the Capitol Guide Board, for the Chief Guide, the Deputy Chief Guide, the Assistant Chief Guide, and the Guides of the Capitol Guide Service.

(c) The limitation on the rate per hour per person provided by applicable law immediately prior to October 1, 1979, with respect to the folding of speeches and pamphlets for the Senate, is increased by 6.87 percent. The amount of such increase shall be computed to the nearest cent, counting one-half cent and over as a whole cent.

(d) The limitations on the gross compensation which may be paid during a fiscal year to employees in the Offices of the President pro tempore, the Majority Leader, the Minority Leader, the Majority Whip, the Minority Whip, the Secretary of the Conference of the Majority, the Secretary of the Conference of the Minority, the Secretary for the Majority, and the Secretary for the Minority are each increased by 6.87 percent and, as so increased, adjusted to the next higher multiple of $202.

COMMITTEE STAFFS

SEC. 5. (a) Subject to the provisions of section 105 of the Legislative Branch Appropriation Act, 1968, as amended, (as modified by this Order) and the other provisions of this Order, the chairman of any standing, special, or select committee of the Senate (including the majority and minority policy committees and the conference majority and conference minority of the Senate), and the chairman of any joint committee of the Congress whose funds are disbursed by the Secretary of the Senate, are each authorized to increase the annual rate of compensation of any employee of the committee, or any subcommittee thereof, of which he is chairman, by 6.87 percent and, as so increased, adjusted to the next higher multiple of $202.

(b)(1) The figures "$22,302" and "$33,642" appearing in section 105(e) of the Legislative Branch Appropriation Act, 1976, amended, (as provided in section 5(b)(1) of the Order of the President pro tempore of October 9, 1978) shall be deemed to refer to the figures "$23,836" and "$35,956", respectively.

(2) The maximum annual rates of "$55,944", "$58,212", and "$61,425" appearing in such section 105(e) (as provided in section 5(b)(2) of such Order of October 9, 1978) are each further increased by 6.87 percent and, as so increased, adjusted to the next higher multiple of $202, and shall be deemed to refer to the figures "$59,792", "$62,216", and "$65,650", respectively.

(3) Notwithstanding the provisions of paragraph (2) of this subsection, any individual occupying a position on the staff of a standing committee of the Senate or the majority or minority policy committee of the Senate to which any such rate applies shall not be paid at any time at an annual rate in excess of the next lowest multiple of $202 which is at least $5,900, $4,600, and $2,000, respectively, less than the annual rate of compensation which is now or may hereafter be in effect for those positions referred to in section 2(a) of this Order.

(4) Notwithstanding the provisions of paragraph (2) of this subsection, any individual occupying a position on the staff of any special or select committee of the Senate or the conference majority or conference minority of the Senate to which any such rate applies shall not be paid at any time at an annual rate in excess of the next lowest multiple of $202 which is at least $5,900, $4,600 and $2,500, respectively, less than the annual rate of compensation which is now or may hereafter be in effect for those positions referred to in section 2(a) of this order.

(5) Notwithstanding the provisions of paragraph (2) of this subsection, any individual occupying a position on the staff of any joint committee of the Congress whose funds are disbursed by the Secretary of the Senate to which any such rate applies shall not be paid at any time at an annual rate in excess of the next lowest multiple of $202 which is at least $5,900, $4,800, and $2,900, respectively, less than the annual rate of compensation which is now or may hereafter be in effect for those positions referred to in section 2(a) of this order.

SENATORS' OFFICES

SEC. 6. (a) Subject to the provisions of section 105 of the Legislative Branch Appropriation Act, 1968, as amended, (as modified by this Order) and the other provisions of this Order, each Senator is authorized to increase the annual rate of compensation of any employee in his office by 6.87 percent and, as so increased, adjusted to the next higher multiple of $202.

(b) The table contained in section 105(d)(1) of such Act shall be deemed to read as follows:

"$543,178 if the population of his State is less than 2,000,000;

"$558,934 if such population is 2,000,000 but less than 3,000,000;

"$596,910 if such population is 3,000,000 but less than 4,000,000;

"$645,794 if such population is 4,000,000 but less than 5,000,000;

"$685,790 if such population is 5,000,000 but less than 7,000,000;

"$727,806 if such population is 7,000,000 but less than 8,000,000;

"$750,026 if such population is 8,000,000 but less than 9,000,000;

"$773,458 if such population is 9,000,000 but less than 10,000,000;

"$808,606 if such population is 10,000,000 but less than 11,000,000;

"$854,662 if such population is 11,000,000 but less than 12,000,000;

"$889,810 if such population is 12,000,000 but less than 13,000,000;

"$934,654 if such population is 13,000,000 but less than 15,000,000;

"$979,498 if such population is 15,000,000 but less than 17,000,000;

"$1,024,342 if such population is 17,000,000 but less than 19,000,000;

"$1,057,874 if such population is 19,000,000 but less than 21,000,000;

"$1,091,406 if such population is 21,000,000 or more.".

(c)(1) The second sentence of section 105(d)(2) of such Act (as modified by prior orders of the President pro tempore) is further modified to read as follows: "The salary of an employee in a Senator's office shall not be fixed under this paragraph at a rate less than $1,010 per annum or in excess of $32,926 per annum except that (i) the salaries of three employees may be fixed at rates of not more than the rate referred to in subsection (e)(1), (ii) the salaries of five employees may be fixed at rates of not more than $57,974 per annum, and (iii) the salary of one employee may be fixed at a rate of not more than $60,600 per annum.".

(2) Notwithstanding the modification made by paragraph (1) of this subsection, any individual occupying a position to which a rate referred to in clause (i), (ii), or (iii) of such modification applies shall not be paid at any time at an annual rate in excess of the next lowest multiple of $202 which is at least $5,900, $5,400, and $2,500, respectively, less than the annual rate of compensation which is now or may hereafter be in effect for those positions referred to in section 2(a) of this Order.

(d) The figures "$157,626" and "$52,542" appearing in subsections (a), (b)(1), and (b)(2) of section 111 of the Legislative Branch Appropriation Act, 1978, as amended, (as provided in section 6(d) of the Order of the President pro tempore of October 9, 1978) shall be deemed to refer to the figures "$168,468" and "$56,156", respectively.

GENERAL LIMITATION

SEC. 7. (a) The figure "$1,134" appearing in section 105(f) of the Legislative Branch Appropriation Act, 1968, as amended, (as provided in section 7(a) of the Order of the President pro tempore of October 9, 1978) shall be deemed to refer to the figure "$1,010".

(b)(1) The maximum annual rate of compensation of "$61,425" appearing in such section (as provided in section 7(b)(1) of such Order of October 9, 1978) is further increased by 6.87 percent and, as so increased, adjusted to the next higher multiple of $202, and shall be deemed to refer to the figure "$65,650".

(2) Notwithstanding the provisions of paragraph (1) of this subsection, any individual occupying a position to which such rate applies shall not be paid at any time at an annual rate in excess of the next lowest multiple of $202 which is at least $2,500 less than the annual rate of compensation which is now or may hereafter be in effect for those positions referred to in section 2(a) of this Order.

NOTIFYING DISBURSING OFFICE OF INCREASES

SEC. 8. In order for an employee to receive the increase in his annual rate of compensation pursuant to section 4, 5, or 6, the individual designated to authorize such increase for that employee shall notify the Disbursing Office of the Senate in writing that he authorizes such increase for that employee and the date on which such increase is to be effective. Such increase shall become effective as provided in section 105(a)(2) of the Legislative Branch Appropria-

tion Act, 1968, except that (1) if the notice required by the preceding sentence is given within five days (not counting Saturdays, Sundays, or holidays) after the date on which this Order is issued, such increase may become effective on or after October 1, 1979, and (2) in the case of an employee holding a position the maximum rate of compensation which was limited during the fiscal year 1979 by section 304 of the Legislative Branch Appropriations Act, 1979, if the notice required by the preceding sentence is given within five days (not counting Saturdays, Sundays, or holidays) after the date of enactment of a law which limits such maximum rate during the fiscal year 1980, such increase may become effective on and after October 1, 1979.

DUAL COMPENSATION

SEC. 9. The figure "$12,480" contained in section 5533 (c) (1) of title 5, United States Code (as provided in section 9 of the Order of the President pro tempore of October 9, 1978) shall be deemed to refer to the figure "$13,337".

EFFECTIVE DATE

SEC. 10. Sections 1–9 of this Order are effective October 1, 1979.

REGARDING TRADE WITH THE PEOPLE'S REPUBLIC OF CHINA

Mr. HOLLINGS. Mr. President, I understand that the administration is today submitting its most-favored-nation trade agreement with the People's Republic of China. This submittal greatly complicates our country's ability to reach a bilateral textile agreement with the PRC. Further, it is contrary to what we were led to expect during the discussions surrounding the formulation and implementation of the so-called administration white paper on textiles.

Negotiations to achieve a textile bilateral with the People's Republic have thus far yielded nothing. Another round of talks between American and Chinese negotiators will take place in Washington within weeks, but there is no sign of breakthrough and no indication that the Chinese will be any more forthcoming than they were in the earlier discussions.

Meanwhile, PRC textile-apparel goods continue to pour into the United States. In shirts, the Chinese have already filled the quota which the administration imposed on a few categories earlier this year, and the PRC can ship no more shirts into the United States until next May.

That kind of pressure on the Chinese was welcome, and I have always advocated that we take unilateral action against a larger number of categories. The Chinese would understand that, and I think it would facilitate the conclusion of a bilateral agreement covering the whole textile-apparel trade area—in addition to stemming the import tide.

I thought we were all marching in tune on this one. When Secretary of Commerce Kreps went to China earlier this year, I am told that she stressed to the PRC officials that submittal of the most-favored-nation agreement depended upon conclusion of a satisfactory bilateral. Ambassador Strauss reportedly made the same kind of representations to the Chinese when he went to Peking. In fact, every sign, signal, and representation which was given by the administration was that they would press and press hard on this matter.

Now we are caving in. Here comes the administration today, submitting the most-favored-nation agreement, and thereby telling the PRC not to worry, they can eat their cake and have it too. I have always thought that when we go into an important negotiation, we should make use of the leverage and tools available so as to maximize our own position. We had the leverage because we could hold up the one agreement in order to encourage a textile bilateral. And we had the tools to move things along with a wider application of unilateral action against surging Chinese imports.

The Chinese really want this most-favored-nation treatment. It means better trade terms for them, and diplomatically it puts them one up on the Soviet Union. If we press them hard enough, my guess is that they would give concessions elsewhere to achieve their goal—and by elsewhere, I mean textiles. Instead, we now give away the store right on the eve of the new textile talks, and we tell them there is no longer any requirement to reach a bilateral textile agreement. We give them most-favored-nation treatment on a silver platter, and in return they will inundate us with textiles and gobble up American textile jobs. The Chinese have the capacity to deal our textile industry a devastating, perhaps a fatal, blow.

I do not like this kind of odd-day, even-day approach to government. I do not like one day's representation to become the next day's discard. And I especially do not like it when at stake is the largest manufacturing industry in the United States—textiles and apparel. I have expressed my concern to President Carter, and I am today reiterating to my colleagues in Congress the need to hold up on most-favored-nation until we have a textile agreement.

We are not asking the impossible of the administration. All we ask is that we use the tools we have to persuade the Chinese that we mean business and that a bilateral textile agreement is urgently necessary. With some good standup, toe-to-toe negotiating, we could have wrapped one up a long time ago. I think it can still be done, but it requires that we in the Congress make it clear that MFN for the Chinese hinges upon their willingness to make an agreement on textiles.

THE ROLE OF THE SENATE LEGAL COUNSEL

Mr. RIBICOFF. Mr. President, in a pending suit by Senator GOLDWATER and 24 other Members of Congress concerning the revocation of the Mutual Defense Treaty with Taiwan, counsel for the Government have raised a question about the intent of the statute enacted last year establishing the Office of Senate Legal Counsel.

In civil action No. 78–2412, the district court has recently asked parties to comment on the legal and procedural effect of a Presidential message to the Senate requesting approval of the notice of termination of the defense treaty with Taiwan. In its response, the Justice Department suggests that the court should take into account the failure of the Senate to direct its Office of Senate Legal Counsel to appear in this case.

Mr. President, if the Justice Department is successful, the courts may be led to draw unwarranted conclusions from the fact that the Senate has not directed its counsel to participate. This could seriously undermine the ability of any Senator to bring a suit on his own in situations where the Senate as a whole does not authorize the Senate Legal Counsel to appear in support of such suit.

Without commenting in any way on the merits of this particular case, I want to assure the Senate, as the chief author and floor manager of the provision establishing the Senate Legal Counsel, that the Justice Department's position is not consistent with my understanding of the intent of this legislation.

The interpretation proposed by the Government would have a detrimental effect on the ability of individual Senators to pursue their own legal actions. It would make the ability of an individual Senator to bring a case dependent on what action, if any, the full Senate authorized the Legal Counsel to take. Such a result would be very unfair to the individual Senator. As one fully familiar with the history of this legislation I can assure the Senate that this is not the intent of the law.

The Senate report confirms that the Senate, by establishing the Office of the Senate Legal Counsel, never intended thereby to reduce the ability of an individual Senator to pursue a suit on his own. The legislative history emphasizes that the possibility of involvement by the Senate Legal Counsel was seen as enhancing, not excluding or injuring, the continuing ability of individual Senators to bring a legal action. The Senate Report (S. Rept. No. 95–170) states on page 40:

> The bill enhances the ability of a Member of Congress acting as an individual to bring any kind of civil action arising out of the performance of official duties he or she might desire to bring. The Counsel may advise, consult, and cooperate with such individual with respect to retaining private counsel although the counsel may not represent such Member. The title preserves the ability of a Member to intervene or appear as amicus curiae in a legal proceeding, even when the Congressional Legal Counsel is already appearing on behalf of Congress and even if the Member is taking a different position from that taken by the Congressional Legal Counsel. The Counsel will also assist individual members by making relevant legal research materials available to them.

The interpretation urged by the Justice Department also distorts the purpose of the legislation because it denies the Senate as a whole the opportunity to stay neutral in any particular litigation. If the Justice Department interpretation is correct, whenever the Senate Legal Counsel did not appear, for whatever reason, the Senate would in effect be placed on record in opposition to the Senators bringing the suit, and in opposition to any other party whose legal position was in support of the constitutional powers of the Senate. The Senate could avoid this implication only by au-

thorizing an appearance by the Senate Legal Counsel in each case, whether the Senate wanted to get involved or not. The Senate would no longer have the option of simply not considering the matter, for such inaction would be incorrectly interpreted as a decision against the Senators. And the opportunity of the Senate to vote against Senate participation after full consideration would also be reduced since any negative vote, for whatever reasons, would be interpreted as opposition to the suit of the Senators.

The provisions of the statute and its legislative history make it clear that the Senate never intended to pass a statute which would so limit the flexibility and discretion of the Senate, and its ability to stay out of cases brought by individual Senators.

Sections 703 and 706 provide that the Senate Legal Counsel may intervene in any suit which places in issue the powers and responsibilities of the Congress under the Constitution, but only if directed to do so by the full Senate. Section 706 (b) requires the Legal Council to notify Senators of the existence of legal proceedings only if he first determines involvement by the Senate would be in the interest of the Senate. The notice must describe the reasons why the Legal Counsel thinks the Senate should act. The procedure then leaves the decision whether to approve action by the Legal Counsel entirely within the discretion of the Senate Leadership Committee and the Senate. Nothing requires the Senate to even consider the matter.

Nothing in section 709 of the statute, cited by the Justice Department in support of their position, is to the contrary. Section 709 sets forth certain substantive legal positions which the Senate Legal Counsel must take if he is performing representational duties authorized under other sections of the statute. Section 709, despite the Justice Department's assertion otherwise, does not define when the Senate Legal Counsel should become involved in a legal matter, but only how the Legal Counsel must conduct himself once becoming involved in a case.

No adverse inference concerning any aspect of the case should necessarily be drawn from the fact that the Senate chooses not to participate in a proceeding, for it may choose to do nothing for any number of reasons, including limited resources, or a feeling that the position of the Senate is already being adequately protected, or a simple desire to stay neutral on the issue. The Senate report emphasizes that the failure of the Senate to appear in a case may be necessarily based on opposition to the position taken by the Senator bringing the suit, but rather on the fact that—

> The plaintiff is already defending the powers and responsibilities of Congress and intervention by Congress will not increase the likelihood that the court will broadly construe these powers and responsibilities . . . (pp. 97–98).

The legislation thus preserves for the Senate three different options whenever a suit arises that might affect the constitutional powers of Congress.

The Senate can vote affirmatively to participate in the suit through the Legal Counsel. The Senate can decide, through an actual vote, against participation. But as a third option, the provisions of the law allow the Senate to avoid taking any position simply by no steps being taken to bring the matter before the full Senate for its consideration and vote. This option fully preserves the right of the Senate, through inaction, to avoid affecting in any way how a case is decided. Given the possibly large number of cases that may touch on the powers and responsibilities of the Congress, this third alternative is as important a one for the Senate as the other two.

The interpretation proposed by the Justice Department ignores the fact that the law so preserves for the Senate the option of not taking any position in a suit involving the constitutional powers of Congress. It ignores the fact that the law allows the Senate to do so by simply not taking any steps to authorize the appearance of the Senate Legal Counsel in the proceeding. Because it ignores these facts, the position of the Justice Department misinterprets the basic nature and purpose of the legislation providing for the Senate Legal Counsel.

THE SENATE LEGAL COUNSEL: CONGRESSIONAL INTENT

Mr. PERCY. Mr. President, as the ranking minority member of the Governmental Affairs Committee and as an original cosponsor of S. 555, I would like to associate myself fully with Chairman RIBICOFF's statement regarding the Justice Department's assertion that under the provisions of Public Law 95–521, the courts should deny an individual Senator the right to bring suit if the Senate as a whole does not appear in support of the individual Senator's suit. This interpretation of title VII of the Ethics in Government Act is clearly inaccurate.

As Senator RIBICOFF has noted, it was not the intent of Congress to limit in any way the authority of individual Senators to pursue their own suits on questions which may be of abiding interest to them but on which the Senate does not participate for any number of possible reasons—including the sheer weight of other business.

To suggest that congressional powers could be yieled by inaction as a result of this statute would completely reverse the basic purpose of Public Law 95–521. Title VII was designed strictly as a means of strengthening the hand of the Senate and assisting individual Senators. In no way was it intended, nor should it be interpreted, as paving the way for a diminution of congressional powers—including the right of individual Members to bring suit—simply because this additional tool is not utilized. Nor should the absence of the Senate Legal Counsel in a proceeding carry any implication with respect to the Senate's position on the substantive issues at stake.

Mr. President, in closing, I reiterate that the interpretation of Title VII of Public Law 95–521 which has been suggested by the Justice Department was not contemplated at any point in the drafting of that legislation, and runs counter to the clearly expressed intent of the statute.

SENATE LEGAL COUNSEL: LEGISLATIVE INTENT

Mr. JAVITS. Mr. President, I want to join with my colleagues, Senators RIBICOFF and PERCY, in expressing concern over the position regarding Senate Legal Counsel taken by the Justice Department in its papers in *Goldwater* v. *Carter* (civil action No. 78–2412). I express no opinion on the merits of the underlying case itself, since that is the function of the Court. However, as one who was deeply involved in the establishment of the Office, I would like to make clear that it was never my intent, nor to my knowledge the intent of any of the other authors of this legislation, to make the Office the exclusive method for a Senator to gain standing in court.

Under the statute setting up the Office, the authority of the Legal Counsel to represent the Senate or its individual Members is dependent on the concurrence of the full Senate on a case by case basis. There are many reasons why such concurrence may not be forthcoming in any particular matter. For example, a case may be viewed as too political. There may be disagreement among the Members as to what the Legal Counsel's position should be. The Senate may determine that the Office's limited resources are better spent elsewhere. Or the Senate may simply fail to act at all.

Yet, if the Justice Department's position were adopted, the Senate's failure to authorize representation by the Legal Counsel, even if by inaction, would prevent a Senator from filing a lawsuit in his own right. This interpretation would thus result in sharply reduced standing for Members of the Senate.

It was our intention in framing this legislation to establish an office responsible to the Senate that could provide high-caliber legal representation when the Senate, as an institution, requested it. That capacity had previously been lacking. It was not our intent, I believe, to diminish in any way, the ability of individual Members to bring legal actions on their own. Thus, the Senate report on the legislation establishing the Legal Counsel's Office states:

> The bill enhances the ability of a member of Congress acting as an individual to bring any kind of civil action arising out of the performance of official duties he or she might desire to bring. . . . The title preserves the ability of a member to intervene or appear as amicus curiae in a legal proceeding, even when the Congressional Legal Counsel is already appearing on behalf of Congress and even if the member is taking a different position from that taken by the Congressional Legal Counsel. S. Rept. 95–170 at p. 40.

In my view, the position taken by the Department of Justice in this matter is contrary to the legislative intent, and is inconsistent with legislative history.

MESSAGES FROM THE HOUSE

At 10:17 a.m., a message from the House of Representatives delivered by

Mr. Gregory, one of its reading clerks, announced that the House has passed the following bill, without amendment:

S. 567. An act to amend title 28 of the United States Code to allow the U.S. attorney and assistant U.S. attorney for the eastern district of New York to reside within twenty miles of the district.

The message also announced that the House agrees to the amendment of the Senate to the text of the bill (H.R. 1825) to protect archaeological resources on public lands and Indian lands, and for other purposes, with an amendment in which it requests the concurrence of the Senate; and that the House agrees to the amendment of the Senate to the title of the bill.

ENROLLED BILL SIGNED

At 1:35 p.m., a message from the House of Representatives delivered by Mr. Gregory, announced that the Speaker has signed the following enrolled bill:

S. 567. An act to amend title 28 of the United States Code to allow the U.S. attorney and assistant U.S. attorney for the eastern district of New York to reside within 20 miles of the district.

The enrolled bill was subsequently signed by the President pro tempore (Mr. MAGNUSON).

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 600. An act to incorporate United Service Organizations,

H.R. 1298. An act to designate the U.S. Post Office and Federal Building, Huntington, W. Va., as the "Sidney L. Christie Federal Building";

H.R. 3407. An act to waive the time limitation on the award of certain military decorations to members of the Intelligence and Reconnaissance Platoon of the 394th Infantry Regiment, 99th Infantry Division, for acts of valor performed during the Battle of the Bulge;

H.R. 3909. An act to amend section 12 of the Contract Disputes Act of 1978;

H.R. 4259. An act authorizing the President of the United States to present a gold medal to the American Red Cross;

H.R. 4627 An act to permit citizens of the Northern Mariana Islands to enlist in the Armed Forces of the United States before becoming citizens of the United States upon the establishment of the Commonwealth of the Northern Mariana Islands;

H.R. 4792. An act to name a certain Federal building in Houston, Tex., the Bob Casey Federal Building—U.S. Courthouse;

H.R. 5025 An act to amend title 10, United States Code, to provide that any person eligible for medical care under the civilian health and medical program of the uniformed services (CHAMPUS) who is a veteran with a service-connected disability may not be denied care and treatment for such disability under CHAMPUS solely because such person is eligible for care and treatment for such disability in Veterans' Administration facilities;

H.R. 5176. An act to establish an independent personnel system for employees of the General Accounting Office; and

H.R. 5386. An act to amend the Higher Education Act of 1965 to provide that any reduction in the amount appropriated for fiscal year 1980 pursuant to section 101(a) of such act from the amount so appropriated for fiscal year 1979 shall be borne equally by all the States.

The message further anounced that the House has passed the following bill, with amendments in which it requests the concurrence of the Senate:

S. 1728. An act to designate the U.S. Federal courthouse building located at 655 East Durango, San Antonio, Tex., as the "John H. Wood, Jr., Federal Courthouse."

The message also announced that, pursuant to section 2(e) of Public Law 93–379, the minority leader has appointed Mr. Robert S. Thompson, of Washington, D.C., as a member of the District of Columbia Law Revision Commission, vice Mr. Dewitt S. Hyde, resigned.

At 2:33 p.m., a message from the House of Representatives delivered by Mr. Berry, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to H.R. 3173, an act to amend the Foreign Assistance Act of 1961 and the Arms Export Control Act to authorize international security assistance programs for fiscal years 1980 and 1981, and for other purposes.

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 196. Concurrent resolution directing the Clerk of the House of Representatives to make technical corrections in the enrollment of H.R. 3173.

HOUSE BILLS REFERRED

The following bills were read twice by their titles and referred as indicated:

H.R. 600. An act to incorporate United Service Organizations, Inc.; to the Committee on the Judiciary.

H.R. 1298. An act to designate the U.S. Post Office and Federal Building in Huntington, W. Va., as the "Sidney L. Christie Federal Building"; to the Committee on Environment and Public Works.

H.R. 3407. An act to waive the time limitation on the award of certain military decorations to members of the Intelligence and Reconnaissance Platoon of the 394th Infantry Regiment, 99th Infantry Division, for acts of valor performed during the Battle of the Bulge; to the Committee on Armed Services.

H.R. 3909. An act to amend section 12 of the Contract Disputes Act of 1978; to the Committee on Governmental Affairs and the Committee on the Judiciary, jointly, by unanimous consent.

H.R. 4259. An act authorizing the President of the United States to present a gold medal to the American Red Cross; to the Committee on Banking, Housing, and Urban Affairs.

H.R. 4627. An act to permit citizens of the Northern Mariana Islands to enlist in the Armed Forces of the United States before becoming citizens of the United States upon the establishment of the Commonwealth of the Northern Mariana Islands; to the Committee on Armed Services.

H.R. 4792. An act to name a certain Federal building in Houston, Tex., the Bob Casey Federal Building—U.S. Courthouse; to the Committee on Environment and Public works.

H.R. 5025. An act to amend title 10, United States Code, to provide that any person eligible for medical care under the civilian health and medical program of the uniformed services (CHAMPUS) who is a veteran with a service-connected disability may not be denied care and treatment for such disability under CHAMPUS solely because such person is eligible for care and treatment for such disability in Veterans' Administration facilities; to the Committee on Armed Services.

H.R. 5176. An act to establish an independent personnel system for employees of the General Accounting Office; to the Committee on Governmental Affairs.

H.R. 5386. An act to amend the Higher Education Act of 1965 to provide that any reduction in the amount appropriated for fiscal year 1980 pursuant to section 101(a) of such act from the amount so appropriated for fiscal year 1979 shall be borne equally by all the States; to the Committee on Labor and Human Resources.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, October 16, 1979, he presented to the President of the United States the following enrolled bill:

S. 567. An act to amend title 28 of the United States Code to allow the U.S. attorney and assistant U.S. attorneys for the eastern district of New York to reside within 20 miles of the district.

COMMUNICATIONS

The PRESIDING OFFICER laid before the Senate the following communications, together with accompanying reports, documents, and papers, which were referred as indicated:

EC–2322. A communication from the Director, Legislative Liaison, Department of the Air Force, transmitting a draft of proposed legislation to amend title 5, United States Code, to entitle Civil Air Patrol Cadets 18 years of age and older to compensation available to Civil Air Patrol senior members in the event of disability or death and to increase the amount of that compensation; to the

EC–2323. A communication from the Secretary of the Interstate Commerce Commission, transmitting, pursuant, to law, notice that the Commission was unable to render a final decision in Investigation and Suspension Docket No. 9205, Trainload Rates on Radioactive Materials, Eastern Railroads and Investigation and Suspension Docket No. 9205 (Sub No. 1) Trainload Rates on Radioactive Materials, Eastern Railroads, in the specified period; to the Committee on Commerce, Science, and Transportation.

EC–2324. A communication from the Director of the U.S. Office of Personnel Management, transmitting, pursuant to law, a report on two new systems of records for the Office of Personnel Management, pursuant to the Privacy Act; to the Committee on Governmental Affairs.

EC–2325. A communication from the Deputy Assistant Secretary of the Interior for Indian Affairs, transmitting, pursuant to law, a proposed plan for the use and distribution of Indian judgment funds awarded in Docket 182, the Fort Sill Apache Tribe et al. v. the United States of America, and Docket 182–A, the Fort Sill Apache Tribe of the State of Oklahoma, et al. v. the United States of America, before the United States Court of Claims; to the Select Committee on Indian Affairs.

EC–2326. A communication from the Executive Director of the Committee For Purchase From The Blind and Other Severely Handicapped, transmitting, pursuant to law, the annual report of the Committee for Purchase From the Blind and Other Severely Handicapped for fiscal year 1978; to the Committee on Labor and Human Resources.

EC-2327. A communication from the Assistant Secretary of the Interior for Indian Affairs, transmitting, pursuant to law, final regulations on Indian Education: Policies and Transfer of Functions, published in the Federal Register; to the Committee on Labor and Human Resources.

EC-2328. A communication from the Executive Secretary of the National Labor Relations Board, transmitting a copy of proposed legislation which was to have been transmitted with a communication of the Chairman of the National Labor Relations previously received; to the Committee on Labor and Human Resources.

EC-2329. A communication from the Principal Deputy Secretary of Defense for Research and Engineering, transmitting, pursuant to law, a report on Department of Defense procurement from small and other business firms for the period October 1978 through March 1979; to the Select Committee on Small Business.

EC-2330. A communication from the Acting Comptroller General of the United States, transmitting, pursuant to law, a report on three deferrals of budget authority proposed in the President's 12th special message for fiscal year 1979 on August 27, 1979; pursuant to the order of January 30, 1975, referred jointly to the Committee on Appropriations, the Committee on the Budget, the Committee on Foreign Relations, the Committee on Labor and Human Resources, and the Committee on Finance.

PETITIONS

The PRESIDING OFFICER laid before the Senate the following petitions and memorials, which were referred as indicated:

POM-479. A resolution adopted by the Senate of the State of Massachusetts; to the Committee on the Judiciary:

"RESOLUTION

"Whereas, scleroderma affects some three hundred thousand people in the United States, eighty percent of whom are women of childbearing age; and

"Whereas, the cause of scleroderma is not known; and

"Whereas, scleroderma is more prevalent than muscular dystrophy, multiple sclerosis, and a host of better known ailments; and

"Whereas, not nearly enough attention has been focused on this disease and the result is a shortage of funding for research into a possible cure; and

"Whereas, eighteen United States congressmen have co-sponsored resolution 321 urging Congress to declare February third through February ninth as National Scleroderma Week; Now therefore be it

"Resolved, That the Massachusetts Senate respectfully urges his excellency, the Governor of the Commonwealth, and the Congress of the United States to declare February third through February ninth, inclusive, nineteen hundred and eighty as National Scleroderma Week; and be it further

"Resolved, That copies of these resolutions be transmitted forthwith by the clerk of the Senate to the presiding officers of each branch of Congress, to each Senator and Representative from Massachusetts in the Congress and to his excellency, the Governor of the Commonwealth."

POM-480. A resolution adopted by the House of Representatives; to the Committee on Governmental Affairs:

"HOUSE RESOLUTION No. 246

"Whereas, The continuing decline in the percentage of the populace which fails to exercise the right to vote is detrimental to the well-being of our nation, which is dependent upon citizen participation. Only with the maximum numbers of our people expressing their will via the ballot can government at all levels be truly representative of the people; and

"Whereas, Several states, in an effort to make voting more convenient and uniformly more accessible, have taken steps to heighten voter participation in elections. Although theories vary as to why so many people fail to participate in the democratic process, it is nonetheless a fact that something must be done to ameliorate this situation; and

"Whereas, It is incumbent on the federal government to take such steps as are necessary to ensure that people who wish to vote, but for reasons of location, weather, or health do not, can vote in the most convenient and safe, and the easiest way possible; and

"Whereas, A great aid to solving this dilemma would be to provide postage free absentee ballots to any and all individuals who wish to vote in this manner. Surely this would make voting more convenient for those who seek to partake in the election process; now, therefore, be it

"Resolved by the House of Representatives (the Senate concurring), That we hereby memorialize the President and the Congress of the United States to provide postage free absentee ballots to all those wishing to vote in this manner; and be it further

"Resolved, That copies of this resolution be transmitted to the President of the United States, the Speaker of the U.S. House of Representatives, the President of the U.S. Senate, and to the members of the Michigan Congressional Delegation."

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. JACKSON, from the Committee on Energy and Natural Resources, with an amendment:

S. 1871. A bill to extend the existing antitrust exemption for oil companies that participate in the agreement of an international energy program.

Mr. JACKSON. Mr. President, the Committee on Energy and Natural Resources today considered S. 1871, a bill to extend the existing antitrust defense for oil companies that participate in the agreement on an international energy program. The committee ordered S. 1871 to be favorably reported to the Senate.

On June 26, 1979, the Senate passed S. 1317, a bill which extended the duration of the antitrust defense proviso included in the Energy Policy and Conservation Act of 1975 by four months, until October 31, 1979. That bill passed the House of Rcpresentatives the following day and was enacted as Public Law 96-30 on June 30, 1979.

The purpose of S. 1871 is to extend the duration of the existing antitrust defense for oil companies that participate in the international energy program until June 30, 1980. An ongoing investigation by the General Accounting Office of the effectiveness of the International Energy Agency is expected to be completed in May 1980. The report of the GAO investigation will be available to the Committee on Energy and Natural Resources and the Committee on the Judiciary prior to consideration of the administration's proposal to extend the duration of the antitrust defense proviso to January 19, 1986.

U.S. oil companies participating in the international energy program were granted a limited antitrust defense by section 252 of EPCA, enacted on December 22, 1975. Section 252 was due to expire on June 30, 1979, but a 4-month extension was signed into law on that date. American companies are provided an antitrust defense through the adoption of voluntary agreements and plans of action. In March 1976, the voluntary agreement and plan of action to implement the International Energy Program was adopted. There are 21 U.S. oil companies voluntarily participating in that agreement.

The Federal Trade Commission, which has several responsibilities under EPCA and the voluntary agreement, pointed out in its seventh report to the Congress and the President, September 1979, that without some form of exemption, some of the activities of U.S. oil companies participating in the IEP might subject those companies to liability under the U.S. antitrust laws.

S. 1871 will preserve the status quo concerning the existence of the antitrust defense proviso unitl June 30, 1980, and will afford additional opportunity for a more thorough review of the situation and the need for a further extension of that proviso beyond June 30, 1980.

By Mr. CHURCH, from the Committee on Foreign Relations, without amendment:

S. Res. 257. An original resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 1012. Referred to the Committee on the Budget.

S. Res. 258. An original resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 1668. Referred to the Committee on the Budget.

By Mr. CHURCH, from the Committee on Foreign Relations, with an amendment:

S. 1012. A bill to provide for the participation of the United States in the International Energy Exposition to be held in Knoxville, Tennessee, in 1982, and for other purposes (Rept. No. 96-369).

By Mr. CHURCH, from the Committee on Foreign Relations, with amendments:

S. 1668. A bill to authorize additional appropriations for the Department of State for migration and refugee assistance for fiscal years 1980 and 1981 (Rept. No. 96-370).

FOREIGN CURRENCY REPORTS

In accordance with the appropriate provisions of law, the Secretary of the Senate herewith submits the following report(s) of standing committees of the Senate, certain joint committees of the Congress, delegations and groups, and select and special committees of the Senate, relating to expenses incurred in the performance of authorized foreign travel:

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, COMMITTEE ON COMMERCE, SCIENCE AND TRANSPORTATION, TRAVEL AUTHORIZED BY CHAIRMAN HOWARD W. CANNON EXPENDED BETWEEN JULY 1 AND SEPT. 30, 1979

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Adlai E. Stevenson:									
Austria	Austrian schillings	7,698.24	$576.00	1,198.97	$89.71			8,897.21	$665.71
Bulgaria	Leva	257.12	300.00					257.12	300.00
	DM			589.64	1,075.00			589.64	1,075.00
Subtotal			876.00		1,164.71				2,040.71
Larry Pressler:									
France	French franc	765	180.00					765.00	180.00
Switzerland	Swiss franc	166	100.00					166.00	100.00
Italy	Lire	122,700	150.00					122,700	150.00
	DM			3,802.93	2,076.40			3,802.93	2,076.40
Subtotal			430.00		2,076.40				2,506.40
Total			1,306.00		3,241.11				4,547.11

Oct. 12, 1979

HOWARD W. CANNON,
Chairman, Committee on Commerce, Science and Transportation.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, COMMITTEE ON GOVERNMENTAL AFFAIRS, EXPENDED BETWEEN DEC. 1 AND DEC. 16, 1978

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Casimir A. Yost:									
United Kingdom	Sterling	136.53	$270.00					136.53	$270.00
U.S.S.R.	Rubles			227.90	$339.64			227.90	339.64
					1,047.10				1,047.10
Margaret Nalle:									
United Kingdom	Sterling	136.53	270.00					136.53	270.00
U.S.S.R.	Rubles			227.90	339.64			227.90	339.64
					1,047.10				1,047.10
Total			540.00		2,773.48				3,313.48

Oct. 3, 1979.

ABRAHAM A. RIBICOFF,
Chairman, Committee on Governmental Affairs.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL, SELECT COMMITTEE ON INTELLIGENCE, EXPENDED BETWEEN APR. 1 AND JUNE 30, 1979

Name and continent	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency [1]	Foreign currency	U.S. dollar equivalent or U.S. currency [1]	Foreign currency	U.S. dollar equivalent or U.S. currency [1]	Foreign currency	U.S. dollar equivalent or U.S. currency [1]
Senator John Chafee: Europe									[2] $1,697.38

(Amended report originally submitted June 25, 1979; printed in Congressional Record, July 12, 1979.)

[1] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended. [2] Amends previous report.

June 25, 1979 (amended Oct. 5, 1979).

BIRCH BAYH,
Chairman, Select Committee on Intelligence.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. BOSCHWITZ:

S. 1889. A bill for the relief of Mr. In-Hueng Chung; to the Committee on the Judiciary.

S. 1890. A bill for the relief of Mr. Jonush Morhur; to the Committee on the Judiciary.

S. 1891. A bill for the relief of Miss Rosalind Padmini Raj; to the Committee on the Judiciary.

S. 1892. A bill for the relief of Mr. Edmundo Cox; to the Committee on the Judiciary.

S. 1893. A bill for the relief of Dr. Romulo Kabatay; to the Committee on the Judiciary.

By Mr. McCLURE:

S. 1894. A bill to provide that residents of certain institutions otherwise eligible to receive Supplemental Security Income payments shall not be deprived of such payments; to the Committee on Finance.

By Mr. DOMENICI (for himself and Mr. SCHMITT):

S. 1895. A bill to change the name of the Los Esteros Dam (New Mexico) to the Santa Rosa Dam; to the Committee on Environment and Public Works.

By Mr. TSONGAS:

S. 1896. A bill for the relief of Winston Edmund DuBois; to the Committee on Governmental Affairs.

By Mr. FORD:

S. 1897. A bill for the relief of Dr. Joselito S. Almario; to the Committee on the Judiciary.

By Mr. McGOVERN:

S. 1898. A bill to integrate the provisions of the National School Lunch Act and the Child Nutrition Act of 1966, and to extend those programs that expire in fiscal year 1980; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. SARBANES:

S. 1899. A bill to amend the Chesapeake and Ohio Canal Development Act to change the termination date of the Chesapeake & Ohio Canal National Historical Park Commission from the date ten years after the effective date of such Act to the date twenty years after such effective date; to the Committee on Energy and Natural Resources.

By Mr. RIEGLE (for himself, Mr. LEVIN, and Mr. HUDDLESTON):

S.J. Res. 115. A joint resolution designating July 1980 as "National Porcelain Art Month"; to the Committee on the Judiciary.

By Mr. RANDOLPH:

S.J. Res. 116. A joint resolution providing for the commemoration of the 100th anniversary of the birth of Franklin Delano Roosevelt; to the Committee on Rules and Administration.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. McCLURE:

S. 1894. A bill to provide that residents of certain institutions otherwise eligible to receive supplemental security income payments shall not be deprived of such payments; to the Committee on Finance.

Mr. McCLURE. Mr. President, I am offering today a bill which will extend, in a narrow way, the current exemption which allows those living in a publicly operated community residence to continue to receive the supplemental security income payments to which they are entitled by law. The Social Security Act presently provides that no person is eligible for SSI payments with respect to any month in which he is "an inmate of a public institution". According to the act, public institution does not include a publicly operated community residence which serves no more than 16 residents. My amendment would provide that eligible SSI recipients would continue to receive payments regardless of the total number of residents if there are no more than 20 such eligible SSI recipients living in the facility and provided that all residents pay their own way for room, board, and services provided.

Quite frankly, the measure is intended to address an anomalous situation which was brought to my attention by the application of the current law to the community restorium in Bonners Ferry, Idaho. Bonners Ferry is the seat of Boundary County, which touches on the Canadian border in the panhandle of Idaho.

The county owned residence facility was built in 1976 after the citizens of Boundary County overwhelmingly approved a bond issue to provide housing for the community's senior citizens and handicapped. Private industry was not interested in building a facility in this remote community, and the people felt it necessary to take care of their own. Residents pay $325 per month for room and board. No nursing or special medical treatment is provided to occupants. Those residents meeting low-income and other SSI qualifications have received their monthly payments directly, which they have up until now been able to use to pay for their boarding costs.

In a decision dated September 28, the Social Security Administration Appeals Council in Washington, D.C., determined that residents of the community restorium are ineligible for SSI, and their payments were terminated. There is, in fact, a real danger that they will be forced to repay money previously received.

I do not believe it was the intent of Congress to deprive these people of money they depend upon to live. Clearly, use of the term "inmate" in this provision implies something other than those residing in a facility such as this of their own volition. It is through no fault of their own, the only facility in their community which was built by the county. The county does not profit or benefit from its operation of the residence. It is merely a point of pride with the people of the community that they are providing a home for their friends and neighbors.

In my judgment, this sort of community effort should be encouraged, not defeated, by the application of laws and redtape. I believe the law can be amended to accommodate this situation within reason. I ask unanimous consent that the text of my bill be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1894

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1611(e)(1)(C) of the Social Security Act (42 USC 1382(e)(1)(C)) is amended by striking "16 residents" and inserting in lieu thereof, "20 residents otherwise eligible to receive payments under this subchapter and in which residents are required to pay a reasonable amount for room, board, and services provided".

By Mr. DOMENICI (for himself and Mr. SCHMITT):

S. 1895. A bill to change the name of the Los Esteros Dam (New Mexico) to the Santa Rosa Dam; to the Committee on Environment and Public Works.

● Mr. DOMENICI. Mr. President, today Senator SCHMITT and I are introducing legislation to change the name of a Corps of Engineers dam in our State of New Mexico from Los Esteros Dam to Santa Rosa Dam.

Los Esteros Dam was authorized in Public Law 83–780 and is presently near completion. It will provide substantial recreational, environmental, and economic benefits to the County of Guadalupe, N. Mex.

Recently, Senator SCHMITT and I were approached by county commissioners and officials of Santa Rosa, N. Mex., with a request that the name be changed. The name Los Esteros has no cultural, historical or geographic significance. Consequently, residents of the area would like to name the dam after Santa Rosa, the closest town to the dam. We are, therefore, introducing this legislation and urge its adoption.●

By Mr. McGOVERN:

S. 1898. A bill to integrate the provisions of the National School Lunch Act and the Child Nutrition Act of 1966, and to extend those programs that expire in fiscal year 1980; to the Committee on Agriculture, Nutrition, and Forestry.

NATIONAL CHILD NUTRITION ACT

● Mr. McGOVERN. Mr. President, I am extremely pleased to be introducing today a comprehensive redraft of the National School Lunch Act and the Child Nutrition Act of 1966. The National Child Nutrition Act would integrate these two statutes into one comprehensive, coordinated statue.

Our effort to eliminate poverty caused malnutrition among the Nation's young people has evolved into a complex array of child nutrition programs, statutory language, and regulations. Over 27 million children every day currently participate in the school lunch program, the school breakfast program, summer food service, child care food program, special milk program, WIC program, and others.

Together these programs represent a great American success story.

In my opinion, of all our programs designed to help people, the Nation's feeding programs have been the most successful. Many of the programs that were developed during the sixties and seventies have come under great criticism lately as being inefficient and a waste of taxpayers' money. The generalization does not apply to the Nation's feeding programs. The Nation can be proud of the commitment we have made to feed the hungry and of our accomplishments. The Nation's nutrition programs work.

When a team of medical doctors recently testified before the Nutrition Subcommittee summarizing the findings of their 10-year followup examination of rural poor countries, They told the subcommittee:

> Our first and overwhelming impression is that there are far fewer grossly malnourished people in the country today than there were ten years ago . . . The facts of life for Americans living in poverty remain as dark or darker than they were ten years ago. But in the area of food there is a difference. The food stamp program, the nutritional component of head start, school lunch and breakfast programs, and to a lesser extent the women-infant-children (WIC) feeding programs have made the difference.

From a technical point of view, however, the present statutes are difficult to use. Earlier this year I requested assistance from the General Counsel's office at the Department of Agriculture to help redraft this body of law. They have responded above and beyond the call of duty. I am indebted to Mr. Daniel Marcus, the General Counsel of the Department, to Ms. Helen Lutzen, and the other members of this Office of General Counsel.

The National Child Nutrition Act, despite its length, is technical in nature. It is not intended to make any substantive changes in any of the child nutrition programs, with one exception. The legislation would extend and make permanent those programs which are to expire at the end of fiscal year 1980: Summer food service, State administrative expenses, and nutrition education and training.

I expect that the Nutrition Subcommittee will want to hold a number of hearings during the remainder of the 96th Congress in the area of child nutrition. S. 605, which was introduced by Senator BELLMON will be considered shortly. Senate Resolution 90 calls on the Secretary of Agriculture to make recommendations to the Congress. In addition, other current issues deserve congressional oversight: The importance of nonpoor students to the economic and social viability of the lunch program; expansion of the breakfast program; plate waste; onsite preparation versus preplated meals; the child care food program; the role of management companies; and USDA commodity distribution procedures.

It is my hope that the Agriculture,

Nutrition, and Forestry Committee, as well as the Congress, will use the National Child Nutrition Act as the vehicle for any changes we would like to make in the current law.

I ask unanimous consent that the attached correspondence between myself and Mr. Marcus, the National Child Nutrition Act, and the supporting explanations, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1898

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National Child Nutrition Act".

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TITLE I—DECLARATION OF POLICY

SEC. 101. It is hereby declared to be the policy of Congress, as a measure of national security, to safeguard the health and well-being of the Nation's children and to encourage the domestic consumption of nutritious agricultural commodities and other foods, by assisting States and the Department of Defense, through grants in aid and other means, in providing an adequate supply of foods and other facilities for the establishment, maintenance, operation, and expansion of programs to meet more effectively the nutritional needs of our children.

TITLE II—DEFINITIONS

SEC. 201. For the purpose of this Act—

(a) "State" means any of the fifty States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Trust Territory of the

Pacific Islands, and the Northern Mariana Islands.

(b) "State educational agency" means, as the State legislature may determine, (1) the chief State school officer (such as the State superintendent of public instruction, commissioner of education, or similar officer), or (2) a board of education controlling the State department of education.

(c) "Secretary" means the Secretary of Agriculture.

(d) "School year" means the annual period from July 1 through June 30.

(e) "Food service equipment assistance" means equipment used by schools in storing, preparing, or serving food for schoolchildren.

(f) "School" means (1) any public or nonprofit private school of high school grade or under, (2) any public or licensed nonprofit private residential child care institution (including, but not limited to, orphanages and homes for the mentally retarded), and (3) with respect to the Commonwealth of Puerto Rico, nonprofit child care centers certified as such by the Governor of Puerto Rico. For purposes of clauses (1) and (2) of this subsection, the term "nonprofit," when applied to any such private school or institution, means any such school or institution which is exempt from tax under section 501(c)(3) of the Internal Revenue Code of 1954.

(g) Except as used in titles VIII and XIV of this Act, (f) "child" and "children" shall be deemed to include persons regardless of age who are determined by the State educational agency, in accordance with regulations prescribed by the Secretary, to be mentally or physically handicapped and who are attending any child care institution as defined in title IX of this Act or any nonresidential public or nonprofit private school of high school grade or under for the purpose of participating in a school program established for mentally or physically handicapped: *Provided*, That no institution that is not otherwise eligible to participate in the program under title IX of this Act shall be deemed so eligible because of this sentence.

TITLE III—SCHOOL LUNCH PROGRAM

PAYMENTS TO STATES

SEC. 301. For the purpose of enabling States to assist schools in supplying foods for consumption by children in nonprofit school lunch programs, the Secretary shall make food assistance payments to each State educational agency for each fiscal year, at such times as he may determine, from the sums appropriated therefor.

GENERAL ASSISTANCE PAYMENTS

SEC. 302. For each fiscal year, general assistance payments shall be made to each State educational agency in a total amount equal to the result obtained by multiplying the number of lunches (consisting of a combination of foods which meet the minimum nutritional requirements prescribed by the Secretary under section 310 of this title) served during such fiscal year to children in schools in such State, which participate in the school lunch program under this title under agreements with such State educational agency, by a national average payment per lunch for such fiscal year determined by the Secretary to be necessary to carry out the purposes of this title: *Provided*, That in any fiscal year such national average payment shall not be less than 10 cents per lunch and that the aggregate amount of the food assistance payments made by the Secretary to each State educational agency for any fiscal year shall not be less than the amount of the payments made by the State agency to participating schools within the State for the fiscal year ending June 30, 1972, to carry out the purposes of the school lunch program.

SPECIAL ASSISTANCE PAYMENTS

SEC. 303. (a) For each fiscal year, special assistance payments shall be made to each State educational agency in an amount equal to the sum of the product obtained by multiplying the number of lunches (consisting of a combination of foods which meet the minimum nutritional requirements prescribed by the Secretary pursuant to section 310 of this title) served free to children eligible for such lunches in schools within that State during such fiscal year by the special assistance factor for free lunches prescribed by the Secretary for such fiscal year and the product obtained by multiplying the number of lunches served at a reduced price to children eligible for such reduced price lunches in schools within that State during such fiscal year by the special-assistance factor for reduced price lunches prescribed by the Secretary for such fiscal year.

(b) For the fiscal year beginning July 1, 1973, the Secretary shall prescribe a special-assistance factor for free lunches of not less than 45 cents and a special-assistance factor for reduced price lunches which shall be 20 cents less than the special-assistance factor for free lunches: *Provided*, That, if in any State all schools charge students a uniform price for reduced price lunches, and such price is less than 20 cents, the special-assistance factor prescribed for reduced price lunches in such State shall be equal to the special-assistance factor for free lunches reduced by either 10 cents or the price charged for reduced price lunches in such State, whichever is greater. For succeeding fiscal years, the special-assistance factor for free lunches shall be adjusted as provided in section 304 of this title.

(c) In the case of any school which determines that at least 80 per centum of the children in attendance during a school year (hereinafter in this sentence referred to as the "first school year") are eligible for free lunches or reduced price lunches, special-assistance payments shall be paid to the State educational agency with respect to that school, if that school so requests, for the school year following the first school year, on the basis of the number of free lunches or reduced price lunches, as the case may be, that are served by that school during the school year for which the request is made, to those children who were determined to be so eligible in the first school year and the number of free lunches and reduced price lunches served during that year to other children determined for that year to be eligible for such lunches.

(d) In the case of any school that (1) elects to serve all children in that school free lunches under the school lunch program during any period of three successive school years and (2) pays, from sources other than Federal funds, for the costs of serving such lunches which are in excess of the value of assistance received under this Act with respect to the number of lunches served during that period, special-assistance payments shall be paid to the State education agency with respect to that school during that period on the basis of the number of lunches determined under the succeeding sentence. For purposes of making special-assistance payments in accordance with the preceding sentence, the number of lunches served by a school to children eligible for free lunches and reduced price lunches during each school year of the three-school-year period shall be deemed to be the number of lunches served by that school to children eligible for free lunches and reduced price lunches during the first school year of such period, unless that school elects, for purposes of computing the amount of such payments to determine on a more frequent basis the number of children eligible for free and reduced price lunches who are served lunches during such period.

ADJUSTMENT OF RATES

SEC. 304. (a) The Secretary shall prescribe on July 1 of each fiscal year, and on January 1 of each fiscal year, semiannual adjustments in the national average general assistance rate determined under section 302 of this title, and the special-assistance factor for lunches determined under subsection 303(b) of this title, that shall reflect changes in the cost of operating a school lunch program under this title, as indicated by the change in the series for food away from home of the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor. Such adjustments shall be computed to the nearest one-fourth cent.

(b) In providing assistance for school lunches served in Alaska, Hawaii, Guam, American Samoa, Puerto Rico, the Virgin Islands of the United States, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands, the Secretary may establish appropriate adjustments for each such State to the national average general assistance payment rate prescribed under section 302 of this title and the special-assistance factor prescribed under subsection 303(b) of this title, to reflect the differences between the costs of providing lunches in those States and the costs of providing lunches in all other States.

MATCHING REQUIREMENTS

SEC. 305. General assistance payments to any State under section 302 of this title for any school year shall be made upon the condition that each dollar thereof, other than general assistance payments made in connection with lunches served free or at reduced prices, will be matched by $3 from sources within the State determined by the Secretary to have been expended in connection with the school lunch program under this title. In the case of any State whose per capita income is less than the per capita income of the United States, the matching required for any school year shall be decreased by the percentage which the State per capita income is below the per capita income of the United States. For the purpose of determining whether the matching requirements of this section have been met, the reasonable value of donated services, supplies, facilities, and equipment as certified, respectively, by the State educational agency (but not the cost or value of land, of the acquisition, construction, or alteration of buildings of commodities donated by the Secretary, or of Federal contributions), may be regarded as funds from sources within the State expended in connection with the school lunch program under this title. For the purpose of this section, "United States" means the fifty States and the District of Columbia.

STATE REVENUES

SEC. 306. For each school year, State revenues (other than revenues derived from the school lunch program) appropriated or used specifically for program purposes (other than salaries and administrative expenses at the State, as distinguished from local level) shall be disbursed to schools in an amount equal to 10 per centum of the amount obtained by computing a three-for-one matching requirement as set forth in section 305 (with adjustments for the per capita income of the State), but based upon the total general assistance payments made to the State, including those made in connection with free and reduced price lunches. Such State revenues shall be disbursed to the schools to the extent the State deems practicable, in such manner that each school receives the same proportionate share of such revenues as it receives of the funds apportioned to the State for the same year under this title and under titles IV and VII of this Act.

STATE DISBURSEMENTS TO SCHOOLS

SEC. 307. (a) General assistance payments to any State during any fiscal year pursuant to section 302 of this title shall be disbursed by the State educational agency, in accordance with such agreements, approved by the

Secretary, as may be entered into by such State agency and the schools in the State to those schools in the State which the State educational agency, taking into account need and attendance, determines are eligible to participate in the school lunch program. Such disbursement to any school shall be made only for the purpose of assisting it to finance the cost of obtaining agricultural commodities and other foods for consumption by children in the school lunch program under this title. Such food costs may include, in addition to the purchase price of agricultural commodities and other foods, the cost of processing, distributing, transporting, storing, or handling thereof.

(b) In no event shall disbursement for general assistance to any school for any fiscal year exceed an amount determined by multiplying the number of lunches served in the school in the school lunch program under this title during such year by a maximum general assistance rate for the State, for the type of lunch served, as prescribed by the Secretary. In any fiscal year in which the national average general assistance rate per lunch determined under section 302 of this title is increased above the amount prescribed in the previous fiscal year, the maximum general assistance rate for the State, for the type of lunch served, shall be increased by a like amount.

(c) Special assistance payments to any State during any fiscal year pursuant to section 303 of this title shall be used by the State educational agency to assist schools of that State in financing the cost of providing free and reduced price lunches to children in the school lunch program under this title. The amount of such special assistance funds that a school shall from time to time receive, within a maximum per lunch amount established by the Secretary for all States, shall be based on the need of the school for such special assistance. Such maximum per lunch amount established by the Secretary shall not be less than 60 cents.

(d) Disbursements to schools by State educational agencies under this title may be made in advance or by way of reimbursement in accordance with procedures prescribed by the Secretary.

GUIDELINES FOR FREE OR REDUCED PRICE LUNCHES

SEC. 308. (a) No later than June 1 of each fiscal year, the Secretary shall issue revised income poverty guidelines for use during the subsequent twelve-month period from July through June. The income poverty guidelines shall be the nonfarm income poverty guidelines prescribed by the Office of Management and Budget adjusted annually under section 625 of the Economic Opportunity Act of 1964, as amended (42 U.S.C. 2971d): *Provided*, That the income poverty guidelines for the period commencing July 1, 1978, shall be made as up to date as possible by multiplying the nonfarm income poverty guidelines based on the average 1977 Consumer Price Index, by the change between the average 1977 Consumer Price Index and the Consumer Price Index of March 1978, using the most current procedures of the Office of Management and Budget. The income poverty guidelines for future periods shall be similarly adjusted. For purposes of this subsection, "Consumer Price Index" means the Consumer Price Index published each month by the Bureau of Labor Statistics of the Department of Labor.

(b) Following the announcement by the Secretary of the income poverty guidelines for each twelve-month period, each State educational agency shall prescribe the income guidelines, by family size, to be used by schools in the State during such twelve-month period in making determinations of those eligible for a free lunch as prescribed in this section. The income guidelines for free lunches shall be prescribed at 25 per centum above the applicable family size income levels in the income poverty guidelines prescribed by the Secretary. Each fiscal year, each State educational agency shall also prescribe income guidelines, by family size, to be used by schools in the State during the twelve-month period from July through June in making determinations of those children eligible for a lunch at a reduced price. Such income guidelines for reduced price lunches shall be prescribed at 95 per centum above the applicable family size income levels in the income poverty guidelines prescribed by the Secretary.

(c) Local school authorities shall publicly announces such income guidelines on or about the opening of school each fiscal year, and shall make determinations with respect to the annual incomes of any household solely on the basis of a statement executed in such form as the Secretary may prescribe by an adult member of such household: *Provided*, That such local school authorities may for cause seek verification of the data in such application.

SERVICE OF FREE OR REDUCED PRICE LUNCHES

SEC. 309. (a) Any child who is a member of a household which has an annual income not above 125 per centum of the applicable family size income level set forth in income poverty guidelines prescribed by the Secretary shall be served a free lunch.

(b) Any child who is a member of a household which has an annual income which falls between (1) the applicable family size income level of the income guidelines for free lunches prescribed by the State educational agency and (2) 95 per centum above the applicable family size income levels in the income poverty guidelines prescribed by the Secretary, shall be served a reduced price lunch at a price not to exceed 20 cents.

(c) The requirements of this section relating to the service of meals without cost or at a reduced cost shall apply to the lunch program of any school utilizing commodities donated under any of the provisions of law referred to in title XV of this Act.

(d) Any child who has a parent or guardian who (1) is responsible for the principal support of such child and (2) is unemployed shall be served a free or reduced price lunch, respectively, during any period (i) in which such child's parent or guardian continues to be unemployed and (ii) the income of the child's parent or guardian during such period of unemployment falls within the income eligibility criteria for free lunches or reduced price lunches, respectively, based on the current rate of income of such parent or guardian. Local school authorities shall publicly announce that such children are eligible for a free or reduced price lunch, and shall make determinations with respect to the status of any parent or guardian of any child under clauses (1) and (2) of the preceding sentence solely on the basis of a statement executed in such form as the Secretary may prescribe by such parent or guardian.

(e) No physical segregation of or other discrimination against any child eligible for a free lunch or a reduced price lunch under this title shall be made by the school, nor shall there be any overt identification of any child by special tokens or tickets, announced or published lists of names, or by any other means.

(f) Each school participating in the school lunch program under this title shall report each month to its State educational agency the average number of children in the school who received free lunches and the average number of children who received reduced price lunches during the immediately preceding month. Each participating school shall provide an estimate, as of October 1 and March 1 of each year, of the number of children who are eligible for a free or reduced price lunch.

(g) The State educational agency of each State shall report to the Secretary each month the average number of children in the State who received free lunches and the average number of children in the State who received reduced price lunches during the immediately preceding month. Each State educational agency shall provide an estimate as of October 1 and March 1 of each year, of the number of children who are eligible for a free lunch or reduced price lunch.

(h) None of the requirements of this section in respect to the amount for "reduced cost" meals and to eligibility for meals without cost shall apply to schools which are private and nonprofit (as defined in title II of this Act) and which participate in the school lunch program under this Act, until such time as the State educational agency certifies that sufficient funds from sources other than children's payments are available to enable such schools to meet these requirements.

NUTRITIONAL REQUIREMENTS

SEC. 310. Lunches served by schools participating in the school lunch program under this title shall meet minimum nutritional requirements prescribed by the Secretary on the basis of tested nutritional research: *Provided*, That such minimum nutritional requirements shall not be construed to prohibit the substitution of foods to accommodate the medical or other special dietary needs of individual students.

FOOD WASTE

SEC. 311. (a) The Secretary shall establish, in cooperation with State educational agencies, administrative procedures, which shall include local educational agency and student participation, designed to diminish waste of foods which are served by schools participating in the school lunch program under this title without endangering the nutritional integrity of the lunches served by such schools.

(b) Students in senior high schools that participate in the school lunch program under this title (and, when approved by the local school district or nonprofit private schools, students in any other grade level in any junior high school or middle school) shall not be required to accept offered foods they do not intend to consume, and any such failure to accept offered foods shall not affect the full charge to the student for a lunch meeting the requirements of this title or the amount of payments made under this title to any such school for such lunch.

(c) As a means of diminishing waste of foods without endangering nutritional integrity of meals served, the Secretary shall conduct a study to determine the cost and feasibility of requiring schools to offer a choice of menu items within the required meal patterns. This study shall, as a minimum, include different needs and capabilities of elementary and secondary schools for such a requirement. The Secretary shall develop regulations designed to diminish such waste based on the results on this study.

USE OF ABUNDANT AND DONATED FOODS

SEC. 312. (a) Each school shall, insofar as practicable, utilize in its lunch program foods designated form time to time by the Secretary as being in abundance, either nationally or in the school area, of foods donated by the Secretary.

(b) Any school participating in food service programs under this Act may refuse to accept delivery of not more than 20 per centum of the total value of donated foods tendered to it in any school year; and if a school so refuses, that school may receive, in lieu of the refused foods, other foods to the extent that other foods are available to the States during that year.

PILOT PROJECTS

SEC. 313. (a) The Secretary may conduct pilot projects in not more than fourteen

school districts (or other appropriate units), of which not more than two may be located in any administrative region of the Food and Nutrition Service of the Department of Agriculture, for the purpose of determining the feasibility, cost, and other consequences of providing lunches free to all children, without regard to the income of the children's families, during the school year beginning July 1, 1979.

(b) The Secretary shall reimburse school food authorities participating in a pilot project under this section for all lunches served to children on the same basis that the Secretary normally provides for lunches served to children meeting the eligibility requirements for free lunches under this title.

(c) The Secretary shall submit to the appropriate committees of the Senate and the House of Representatives a report on the pilot projects conducted under this section not later than six months after the conclusion of such projects.

(d) There are hereby authorized to be appropriated such sums as are necessary for the fiscal year beginning October 1, 1978, for the purpose of conducting an evaluation of pilot projects conducted under this section and for the purpose of making additional payments for lunches served to children (beyond what the school food authorities would otherwise receive under this title) to school food authorities participating in pilot projects.

TITLE IV—SCHOOL BREAKFAST PROGRAM

POLICY

SEC. 401. As a national nutrition and health policy, it is the purpose and intent of the Congress that the school breakfast program be made available in all schools where it is needed to provide adequate nutrition for children in attendance. The Secretary is hereby directed, in cooperation with State educational agencies, to carry out a program of information in furtherance of this policy.

PAYMENTS TO STATES

SEC. 402. For the purpose of assisting the States to initiate, maintain, or expand nonprofit breakfast programs in all schools which make application for assistance and agree to carry out a nonprofit breakfast program in accordance with this title, the Secretary shall make food assistance payments to each State educational agency for each fiscal year, at such times, as he may determine, from the sums appropriated therefor.

RATES OF PAYMENT

SEC. 403. (a) The payments to each State educational agency shall be in a total amount equal to the result obtained by (1) multiplying the number of breakfasts (consisting of a combination of foods which meet the minimum nutritional requirements prescribed by the Secretary pursuant to section 408 of this title served during such fiscal year to children in schools in such States which participate in the breakfast program under this title under agreements with such State educational agency by a national average breakfast payment prescribed by the Secretary for such fiscal year to carry out the purposes of this title; (2) multiplying the number of such breakfasts served free to children eligible for free breakfasts in such schools during such fiscal year by a national average free breakfast payment prescribed by the Secretary for such fiscal year to carry out the purposes of this title; and (3) multiplying the number of reduced price breakfasts served to children eligible for reduced price breakfasts in such schools during such fiscal year by a national average reduced price breakfast payment prescribed by the Secretary for such fiscal year to carry out the provisions of this title: *Provided*, That in any fiscal year the aggregate amount of the breakfast assistance payments made by the Secretary to each State educational agency for any fiscal year shall not be less than the amount of the payments made by the State educational agency to participating schools within the State for the fiscal year ending June 30, 1972, to carry out the school breakfast program. The national average payment established by the Secretary for all breakfasts served to eligible children shall not be less than 8 cents; an amount of not less than 15 cents shall be added for each reduced price breakfast; and an amount of not less than 20 cents shall be added for each free breakfast.

ADJUSTMENTS OF RATES

SEC. 404. (a) The Secretary shall prescribe on July 1 of each fiscal year, and on January 1, of each fiscal year, semiannual adjustments in the national average rates for breakfast served under this title that shall reflect changes in the cost of operating a school breakfast program under this title, as indicated by the change in the series for food away from home of the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor. Such adjustments shall be computed to the nearest one-fourth cent.

(b) In providing assistance for school breakfasts served in Alaska, Hawaii, Guam, American Samoa, Puerto Rico, the Virgin Islands of the United States, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands, the Secretary may establish appropriate adjustments for each such State to the national average payment rates prescribed under this title to reflect the differences between the costs of providing breakfasts in those States and the costs of providing breakfasts in all other States.

SCHOOLS IN SEVERE NEED

SEC. 405. (a) The Secretary shall make additional payments for breakfasts served to children qualifying for a free or reduced price breakfast at schools that are in severe need.

(b) The maximum payment for each such free breakfast shall be the higher of—

(1) the national average payment established by the Secretary for free breakfasts, plus 10 cents; or

(2) 45 cents, which shall be adjusted on a semiannual basis each July 1 and January 1 to the nearest one-fourth cent in accordance with changes in the series for food away from home of the Consumer Price Index for all Urban Consumers published by the Bureau of Labor Statistics of the Deparment of Labor for the most recent six-month period for which such data are available, except that the initial such adjustment shall be made on January 1, 1978, and shall reflect the change in the series of food away from home during the period November 1, 1976, to October 31, 1977.

(c) The maximum payment for each such reduced price breakfast shall be 5 cents less than the maximum payment for each free breakfast, as determined under subsection (b) of this section.

(d) Each State educational agency shall establish eligibility standards for providing additional assistance to schools in severe need, which shall include those schools in which the service of breakfasts is required pursuant to State law and those schools (having a breakfast program or desiring to initiate a breakfast program) in which, during the most recent second preceding school year for which lunches were served, 40 per centum or more of the lunches served to students at the school were served free or at a reduced price and in which the rate per meal established by the Secretary is insufficient to cover the costs of the breakfast program. Pursuant to those State eligibility standards, a school, upon the submission of appropriate documentation about the need circumstances in that school and the school's eligibility for additional assistance, shall be entitled to receive 100 per centum of the operating costs of the breakfast program, including the costs of obtaining, preparing, and serving food, or the meal reimbursement rate specified in subsection (b) of this section for free breakfasts, whichever is less.

STATE DISBURSEMENTS TO SCHOOLS

SEC. 406. (a) Funds paid to any State for the purpose of this title shall be disbursed by the State educational agency to schools selected by the State educational agency to assist such schools in financing the costs of operating a breakfast program pursuant to this title. Disbursement to schools shall be made at such rates per meal or on such other basis as the Secretary shall prescribe. In selecting schools for participation, the State educational agency shall, to the extent practicable, give first consideration to those schools drawing attendance from areas in which poor economic conditions exist, to those schools in which there is a special need for improving the nutrition and dietary practices of children of working mothers and children from low-income families.

(b) Breakfast assistance disbursements to schools under this section may be made in advance or by way of reimbursement in accordance with procedures prescribed by the Secretary.

FREE AND REDUCED PRICE BREAKFASTS

SEC. 407. Breakfasts shall be served free or at a reduced price to children in school under the same terms and conditions as are set forth with respect to the service of lunches free or at a reduced price in section 309 of title III of this Act.

NUTRITIONAL REQUIREMENTS

SEC. 408. Breakfasts served by schools participating in the school breakfast program under this title shall consist of a combination of foods and shall meet minimum nutritional requirements prescribed by the Secretary on the basis of tested nutritional research.

USE OF ABUNDANT AND DONATED FOODS

SEC. 409. Each school participating in the breakfast program under this title shall, insofar as practicable, utilize in its program foods designated from time to time by the Secretary as being in abundance, either nationally or in the school area, or foods donated by the Secretary.

TITLE V—DEPARTMENT OF DEFENSE OVERSEAS DEPENDENTS' SCHOOLS

SEC. 501. (a) For the purpose of obtaining Federal payments and foods in conjunction with the provision of lunches and breakfasts to students attending Department of Defense dependents' schools which are located in areas other than those within the definition of "State" in this Act, the Secretary of Agriculture shall make available to the Department of Defense, from funds appropriated for such purpose, the same payments and foods as are provided to States for schools participating in the school lunch and school breakfast programs under titles III and IV of this Act.

(b) The Secretary of Defense shall administer the school lunch and school breakfast programs authorized by this title and shall determine eligibility for free and reduced price breakfasts under the criteria published by the Secretary of Agriculture, except that the Secretary of Defense shall prescribe regulations governing computation of income eligibility standards for families of students participating in the school lunch and school breakfast programs under this title.

(c) The Secretary of Defense shall be required to offer meals meeting nutritional standards prescribed by the Secretary of Agriculture; however, the Secretary of Defense may authorize deviations from Department of Agriculture prescribed meal pat-

terns and fluid milk requirements when local conditions preclude strict compliance or when such compliance is highly impracticable.

(d) Funds are hereby authorized to be appropriated for any fiscal year in such amounts as may be necessary for the administrative expenses of the Department of Defense under this title and for payment of the difference between the value of foods and payments received from the Secretary of Agriculture and (1) the full cost of each lunch and each breakfast for each student eligible for a free lunch or free breakfast, and (2) the full cost of each lunch and each breakfast, less any amounts required by law or regulation to be paid by each student eligible for a reduced price lunch or breakfast.

(e) The Secretary of Agriculture shall provide the Secretary of Defense with technical assistance in the administration of the lunch and breakfast programs authorized by this title.

TITLE VI—SPECIAL MILK PROGRAM

PROGRAM AUTHORIZATION

SEC. 601. The Secretary of Agriculture shall, under such rules and regulations as he may deem in the public interest, encourage consumption of fluid milk by children in the States in (1) nonprofit schools of high school grade and under, and (2) nonprofit nursery schools, child-care centers, settlement houses, summer camps, and similar nonprofit institutions devoted to the care and training of children. The Secretary shall administer the special milk program provided for by this title to the maximum extent practicable in the same manner as he administered the special milk program provided for by Public Law 89-642, as amended, during the fiscal year ending June 30, 1969. Any school or nonprofit child care institution shall receive the special milk program upon its request.

REIMBURSEMENT RATE

SEC. 602. For the fiscal year ending June 30, 1975, the minimum rate of reimbursement for a half-pint of milk served in schools and other eligible institutions shall not be less than 5 cents per half-pint served to eligible children, and such minimum rate of reimbursement shall be adjusted on an annual basis each school year thereafter to reflect changes in the Producer Price Index for Fresh Processed Milk published by the Bureau of Labor Statistics of the Department of Labor. Such adjustment shall be computed to the nearest one-fourth cent. Notwithstanding any other provision of this section, in no event shall the minimum rate of reimbursement exceed the cost to the school or institution of milk served to children.

FREE MILK

SEC. 603. Children who qualify for free lunches under guidelines established by the Secretary shall, at the option of the school involved (or of the local educational agency involved in the case of a public school) also be eligible for free milk upon their request.

TITLE VII—FOOD SERVICE EQUIPMENT ASSISTANCE PROGRAM FOR SCHOOLS

PROGRAM AUTHORIZATION

SEC. 701. The Secretary shall formulate and carry out a program to assist the States to supply schools drawing attendance from areas in which poor economic conditions exist and which have no, or grossly inadequate, equipment, with equipment other than land or buildings, for the storage, preparation, transportation, and serving of food to enable such schools to establish, maintain, and expand school food service programs. In the case of a nonprofit private school, such equipment shall be for use of such school principally in connection with child feeding programs authorized in this Act.

APPORTIONMENTS TO STATES

SEC. 702. Except for the funds reserved under section 704 of this title, the Secretary shall apportion the funds appropriated for the purposes of this title among the States on the basis of the ratio that the number of lunches (consisting of a combination of foods which meet the minimum nutritional requirements prescribed by the Secretary pursuant to section 310 of title III of this Act) served in each State in the latest preceding school year for which the Secretary determines data are available at the time such funds are apportioned bears to the total number of such lunches served in all States in such preceding school year. If any State cannot utilize all of the funds apportioned to it under the provisions of this section, the Secretary shall make further apportionments to the remaining States in the manner set forth in this section for apportioning funds among all the States.

STATE APPORTIONMENTS TO SCHOOLS

SEC. 703. States shall apportion their share of funds apportioned and paid under section 702 by giving priority to schools without a food service program, schools that do not serve both breakfasts and lunches but that will use food service equipment to initiate the service of breakfasts or lunches, and schools without the facilities to prepare and cook hot meals at the schools (including schools having equipment that is so antiquated or impaired as to endanger the continuation of an adequate food service program or the ability to prepare and cook hot meals) or at a kitchen that serves the schools and that is operated by the local school district or by a nonprofit private school or the authority that is responsible for the administration of one or more nonprofit private schools. After making funds available to such schools, the Secretary shall make the remaining funds available to eligible schools that do not meet the priority criteria, for the purpose of purchasing needed replacement equipment.

RESERVE OF FUNDS

SEC. 704. For the fiscal years ending September 30, 1979, and September 30, 1980, 40 per centum of the funds appropriated for the purposes of this title shall be reserved to the Secretary for apportionment among the States to assist schools without a food service program and schools that do not serve breakfasts or lunches but that plan to use food service equipment to initiate a breakfast or lunch program. The Secretary shall apportion the funds so reserved among the States on the basis of the ratio of the number of children in each State enrolled in schools without a food service program and in schools moving toward the initiation of the service of breakfasts to the number of children in all States enrolled in schools without a food service program and in schools moving toward the initiation of the service of breakfasts. The funds so reserved shall be used by the State only to assist schools without a food service program and schools moving toward the initiation of the service of breakfasts. If any State cannot use all the funds apportioned to it under the provisions of this section, the Secretary shall make further apportionment to the remaining States for use only in assisting schools without a food service program and schools moving toward the initiation of the service of breakfasts. If, after such further apportionment, any funds under this section remain unused, the Secretary shall immediately apportion such funds among the States in accordance with the provisions of section 702 of this title.

MATCHING FUNDS

SEC. 705. Payments to any State of funds apportioned under the provisions of this title for any fiscal year shall be made upon condition that at least one-fourth of the cost of equipment financed under this title shall be borne by funds from sources within the State, except that such condition shall not apply with respect to funds used under this title to assist schools that are especially needy, as determined by criteria to be established by each State and approved by the Secretary.

APPLICATION BY SCHOOLS

SEC. 706. (a) In the election of schools to receive assistance under this section, the State educational agency shall require applicant schools to provide justification of the need for such assistance and the inability of the schools to finance the food service equipment needed.

(b) Disbursements to any school may be made, by advances or reimbursements, only after approval by the State educational agency of a request by the school for funds, accompanied by a detailed description of the equipment to be acquired and the plans for the use thereof in effectively meeting the nutritional needs for children in the school.

USE OF FUNDS BY SCHOOLS

SEC. 707. (a) Funds authorized for the purposes of this title shall be used only for facilities that enable schools, or local public or private nonprofit institutions under the conditions prescribed in paragraph (b) of this section, to prepare and cook hot meals or receive hot meals at the school or institution unless the school can demonstrate to the satisfaction of the State that an alternative method of meal preparation is necessary for the introduction or continued existence of the school lunch or breakfast program in such school or to improve the consumption of food or the participation of eligible children in the program.

(b) If a school authorized to receive funds under this title cannot establish a food service program of hot meals prepared and cooked by the school, or received by the school, and the school enters into an agreement with a public or private nonprofit institution to provide the school lunch or breakfast program for children attending the school, the funds provided under this section may be used for food service facilities to be located at such institution, if (1) the school retains legal title to such facilities and, (2) in the case of funds made available under section 704 of this title, the institution would otherwise be without such facilities.

TITLE VIII—SUMMER FOOD SERVICE PROGRAM

PROGRAM AUTHORIZATION

SEC. 801. The Secretary is authorized to carry out a program to assist States to initiate, maintain, and expand nonprofit food service programs for children in service institutions.

DEFINITIONS

SEC. 802. For purposes of this title, (a) "program" means the summer food service program for children authorized by this title; (b) "service institutions" means nonresidential public or private nonprofit institutions, and residential public or private nonprofit summer camps, that develop special summer or school vacation programs providing food service similar to that made available to children during the school year under the school lunch program or the school breakfast program under this Act; (c) "areas in which poor economic conditions exist" means areas in which at least 33⅓ per centum of the children are eligible for free or reduced price school meals under this Act as determined by information provided from departments of welfare, zoning commissions,

census tracts, by the number of free and reduced price lunches or breakfasts served to children attending public and nonprofit private schools located in the area of program food service sites, or from other appropriate sources, including statements of eligibility based upon income for children enrolled in the program; (d) "children" means individuals who are eighteen years of age and under, and individuals who are older than eighteen who are (1) determined by a State educational agency or a local public educational agency of a State, in accordance with regulations prescribed by the Secretary, to be mentally or physically handicapped, and (2) participating in a public or nonprofit private school program established for the mentally or physically handicapped.

STATE PARTICIPATION

SEC. 803. Each State desiring to participate in the program under this title shall notify the Secretary by January 1 of each year of its intent to administer the program and shall submit by February 15 a management and administration plan for the program for the fiscal year, as required under title X of this Act.

ELIGIBLE SERVICE INSTITUTIONS

SEC. 804. (a) Eligible service institutions entitled to participate in the program shall be limited to those that—

(1) demonstrate adequate administrative and financial responsibility to manage an effective food service;

(2) have not been seriously deficient in operating under the program;

(3) either conduct a regularly scheduled food service for children from areas in which poor economic conditions exist or qualify as camps; and

(4) provide an ongoing year-round service to the community to be served under the program (except that an otherwise eligible service institution shall not be disqualified for failure to meet this requirement for ongoing year-round service if the State determines that its disqualification would result in an area in which poor economic conditions exist not being served or in a significant number of needy children not having reasonable access to a summer food service program).

(b) The following order of priority shall be used by the State in determining participation where more than one eligible service institution proposes to serve the same area:

(1) local schools or service institutions that have demonstrated successful program performance in a prior year;

(2) service institutions that prepare meals at their own facilities or operate only one site;

(3) service institutions that use local school food facilities for the preparation of meals;

(4) other service institutions that have demonstrated ability for successful program operation; and

(5) other service institutions that plan to integrate the program with Federal, State, or local employment programs.

(c) The States shall actively seek eligible service institutions located in rural areas, for the purpose of assisting such service institutions in applying to participate in the program.

AMOUNTS OF PAYMENTS TO SERVICE INSTITUTIONS

SEC. 805. (a) Payments to service institutions shall equal the full cost of food service operations (which cost shall include the cost of obtaining, preparing, and serving food, but shall not include administrative costs), except that such payments to any institution shall not exceed (1) 85.75 cents for each lunch and supper served; (2) 47.75 cents for each breakfast served; or (3) 22.50 cents for each meal supplement served: *Provided*, That such amounts shall be adjusted each January 1 to the nearest one-fourth cent in accordance with the changes for the twelve-month period ending the preceding November 30 in the series for food away from home of the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor: *Provided further*, That the Secretary may make such adjustments in the maximum reimbursement levels as the Secretary determines appropriate.

(b) Every service institution, when applying for participation in the program, shall submit a complete budget for administrative costs related to the program, which shall be subject to approval by the State. Payment to service institutions for administrative costs shall equal the full amount of State approved administrative costs incurred, except that such payments to service institutions may not exceed the maximum allowable levels determined by the Secretary.

ADVANCE PAYMENTS TO STATES

SEC. 806. Not later than April 15, May 15, and July 1, of each year, the Secretary shall forward to each State a letter of credit (advance program payment) that shall be available to each State for the payment of meals to be served by service institutions in the month for which the letter of credit is issued. The amount of the advance program payment shall be an amount which the State demonstrates, to the satisfaction of the Secretary to be necessary for advance program payments to service institutions in accordance with section 807 of this title. The Secretary shall also forward such advance program payments, by the first day of the month prior to the month in which the program will be conducted, to States that operate the program in months other than May through September. The Secretary shall forward any remaining payments due pursuant to section 805 of this title not later than sixty days following receipt of valid claims therefor.

ADVANCE PAYMENTS TO SERVICE INSTITUTIONS

SEC. 807. (a) Not later than June 1, July 15, and August 15 of each year, or, in the case of service institutions that operate under a continuous school calendar, the first day of each month of operation, the State shall forward advance program payments to each service institution: *Provided*, That (1) the State shall not release the second month's advance program payment to any service institution that has not certified that it has held training sessions for its own personnel and the site personnel with regard to program duties and responsibilities, and (2) no advance payment may be made for any month in which the service institution will operate under the program for less than ten days.

(b) The amount of the advance program payment for any month in the case of any service institution shall be an amount equal to (1) the total program payment for meals served by such service institution in the same calendar month of the preceding calendar year, (2) 50 per centum of the amount established by the State to be needed by such service institution for meals if such service institution contracts with a food service management company, or (3) 65 per centum of the amount established by the State to be needed by such service institution for meals if such service institution prepares its own meals, whichever amount is greatest: *Provided*, That the advance program payment may not exceed the total amount estimated by the State to be needed by such service institution for meals to be served in the month for which such advance program payment is made or $40,000, whichever is less, except that a State may make a larger advance program payment to such service institution where the State determines that such larger payment is necessary for the operation of the program by such service institution and sufficient administrative and management capability to justify a larger payment is demonstrated. The State shall forward any remaining payment due a service institution not later than seventy-five days following receipt of valid claims. If the State has reason to believe that a service institution will not be able to submit a valid claim for reimbursement covering the period for which an advance program payment has been made, the subsequent month's advance program payment shall be withheld until such time as the State has received a valid claim. Program payments advanced to serve institutions that are not subsequently deducted from a valid claim for reimbursement shall be repaid upon demand by the State. Any prior payment that is under dispute may be subtracted from an advance program payment.

CAMPS

SEC. 808. Notwithstanding any other provision of this title, camps that satisfy all other eligibility requirements of this title shall receive reimbursement only for meals served to children who meet the eligibility requirements for free or reduced price school meals, as determined under this Act.

STARTUP COSTS

SEC. 809. In order to improve program planning, the Secretary may provide that service institutions be paid as startup costs not to exceed 20 per centum of the administrative funds provided for in the administrative budget approved by the State under subsection 805(b) of this title. Any payments made for startup costs shall be subtracted from amounts otherwise payable for administrative costs subsequently made to service institutions under subsection 805(b) of this title.

QUALITY OF MEALS

SEC. 810. To assure meal quality, States shall, with the assistance of the Secretary, prescribe model meal specifications and model food quality standards, and ensure that all service institutions contracting for the preparation of meals with food service management companies include in their contracts menu cycles, local food safety standards, and food quality standards approved by the State. Such contracts shall require (a) periodic inspections, by an independent agency or the local health department for the locality in which the meals are served, of meals prepared in accordance with the contract in order to determine bacteria levels present in such meals, and (b) that bacteria levels conform to the standards which are applied by the local health authority for that locality with respect to the levels of bacteria that may be present in meals served by other establishments in that locality. Such inspections and any testing resulting therefrom shall be in accordance with the practices employed by such local health authority.

MEAL SERVICE REQUIREMENTS

SEC. 811. (a) Service institutions receiving funds under this title shall serve meals consisting of a combination of foods and meeting minimum nutritional standards prescribed by the Secretary on the basis of tested nutritional research. Each service institution shall, insofar as practicable, use in its food service under the program foods designated from time to time by the Secretary as being in abundance.

(b) Any service institution shall be permitted to serve up to three meals per day of operation if at least one of the three meals is a meal supplement, and any service institution that is a camp shall be permitted to serve up to four meals per day of operation, if the service institution has the administrative capability, and the food preparation and food holding capabilities (where applicable), to manage more than one meal service per day, and if the service period of different meals does not coincide or overlap.

Such meals may include a breakfast, a lunch, a supper, and meal supplements.

(c) Payments shall be made to service institutions only for meals served during the months of May through September, except in the case of service institutions that operate food service programs for children on school vacation at any time under a continuous school calendar.

MEAL PREPARATION FACILITIES

SEC. 812. To the maximum extent feasible, consistent with the purposes of this title, any food service under this title shall use meals prepared at the facilities of the service institution or at the food service facilities of public and nonprofit private schools. The Secretary shall assist States in the development of information and technical assistance to encourage increased service of meals prepared at the facilities of service institutions and at public and nonprofit private schools.

FREE MEALS

SEC. 819. Meals shall be served without cost to children attending service institutions approved for operation under this title, except that, in the case of camps, in conformity with section 808 of this title, charges may be made for meals served to children other than those who meet the eligibility requirements for free or reduced price meals.

ADMINISTRATIVE COST PAYMENTS TO STATES

SEC. 814. (a) The Secretary shall pay to each State for its administrative costs incurred under this title in any fiscal year an amount equal to (1) 20 per centum of the first $50,000 in funds distributed to that State for the program in the preceding fiscal year; (2) 10 per centum of the next $100,000 distributed to that State for the program in the preceding fiscal year; (3) 5 per centum of the next $250,000 in funds distributed to that State for the program in the preceding fiscal year, and (4) 2½ percent of any remaining funds distributed to that State for the program in the preceding fiscal year: *Provided*, That such amounts may be adjusted by the Secretary to reflect changes in the size of that State's program since the preceding fiscal year.

(b) The Secretary shall establish standards and effective dates for the proper, efficient, and effective administration of the program by the State. If the Secretary finds that the State has failed without good cause to meet any of the Secretary's standards or has failed without good cause to carry out the approved State management and administration plan under section 1003 of title X of this Act, the Secretary may withhold from the State such funds authorized under this section as the Secretary determines to be appropriate.

(c) To provide for adequate nutritional and food quality monitoring, and to further the implementation of the summer food service program, an additional amount, not to exceed the lesser of actual costs or 1 per centum of program funds, shall be made available by the Secretary to States to pay for State or local health department inspections, and to reinspect facilities and deliveries to test meal quality.

FOOD SERVICE MANAGEMENT COMPANIES

SEC. 815. (a) Service institutions may contract on a competitive basis only with food service management companies registered with the State in which they operate for the furnishing of meals or management of the entire food service under the summer food service program, except that a food service management company entering into a contract with a service institution under this title may not subcontract with a single company for the total meal, with or without milk, or for the assembly of the meal. The Secretary shall prescribe additional conditions and limitations governing assignment of all or part of a contract entered into by a food service management company under this title. Any food service management company shall, in its bid, provide the service institution information as to its meal capacity. The State shall, upon award of any bid, review the company's registration to calculate how many remaining meals the food service management company is equipped to prepare.

(b)(1) Each State shall provide for the registration of food service management companies. For the purposes of this section, registration shall include, at a minimum—

(A) certification that the company meets applicable State and local health, safety, and sanitation standards;

(B) disclosure of past and present company owners, officers, and directors, and their relationship, if any, to any service institution or food service management company that received summer food service program funds in any prior fiscal year;

(C) records of contract terminations or disallowances, and health, safety, and sanitary code violations, in regard to program operations in prior fiscal years; and

(D) the addresses of the company's food preparation and distribution sites.

(2) No food service management company may be registered if the State determines that such company (A) lacks the administrative and financial capability to perform under the summer food service program, or (B) has been seriously deficient in its participation in the program in prior fiscal years.

(c) In order to ensure that only qualified food service management companies contract for services in all States, the Secretary shall maintain a record of all registered food service management companies and their program record for the purpose of making such information available to the States.

(d) In accordance with regulations issued by the Secretary, positive efforts shall be made by service institutions to use small businesses and minority-owned businesses as sources of supplies and services. Such efforts shall afford those sources the maximum feasible opportunity to compete for contracts using program funds.

(e) Each State, with the assistance of the Secretary, shall establish a standard form of contract for use by service institutions and food service management companies. The Secretary shall prescribe requirements governing bid and contract procedures for acquisition of the services of food service management companies, including, but not limited to, bonding requirements (which may provide exemptions applicable to contracts of $100,000 or less), procedures for review of contracts by States, and safeguards to prevent collusive bidding activities between service institutions and food service management companies.

REGULATIONS

SEC. 816. The Secretary shall publish proposed regulations relating to the implementation of the summer food service program by November 1 of each fiscal year, final regulations by January 1 of each fiscal year, and guidelines, applications, and handbooks by February 1 of each fiscal year.

TITLE IX—CHILD CARE FOOD PROGRAM

PROGRAM AUTHORIZATION

SEC. 901. The Secretary shall carry out a program to assist States to initiate, maintain, and expand nonprofit food service programs for children in institutions providing child care.

INSTITUTION DEFINED

SEC. 902. For the purposes of this title, the term "institution" means any public or private nonprofit organization providing nonresidential child care, including, but not limited to, child care centers, settlement houses, recreational centers, Head Start centers, and institutions providing child care facilities for handicapped children. In addition, the term "institution" shall include programs developed to provide day care outside school hours for schoolchildren, and public or nonprofit private organizations that sponsor family or group day care homes. The Secretary may establish separate guidelines for institutions that provide care to school children outside of school hours.

ELIGIBILITY CRITERIA

SEC. 903. For purposes of determining eligibility—

(a) No institution, other than a family or group day care home sponsoring organization, or family or group day care home shall be eligible to participate in the child care food program unless it has Federal, State, or local licensing or approval, or is complying with appropriate renewal procedures as prescribed by the Secretary and the State has no information indicating that the institution's license will not be renewed; or where Federal, State, or local licensing or approval is not available, it receives funds under title XX of the Social Security Act or otherwise demonstrates that it meets either any applicable State or local government licensing or approval standards or approval standards established by the Secretary after consultation with the Secretary of Health, Education, and Welfare; and

(b) No institution shall be eligible to participate in the program unless it satisfies the following criteria:

(1) accepts final administrative and financial responsibility for management of an effective food service;

(2) has not been seriously deficient in its operation of the child care food program, or any other program under this Act, for a period of time specified by the Secretary; and

(3) will provide adequate supervisory and operational personnel for overall monitoring and management of the child care food program.

APPLICATION AND APPROVAL OF INSTITUTIONS

SEC. 904. Any eligible public institution shall be approved by the State for participation in the child care food program upon its request. Any eligible private institution shall be approved for participation if it (a) has tax-exempt status under the Internal Revenue Code of 1954 or, under conditions established by the Secretary, is moving toward compliance with the requirements for tax-exempt status, or (b) is currently operating a Federal program requiring nonprofit status. Family or group day care homes need not have individual tax-exempt certification if they are sponsored by an institution that has tax-exempt status, or, under conditions established by the Secretary, such institution is moving toward compliance with the requirements for tax-exempt status or is currently operating a Federal program requiring nonprofit status. An institution applying for participation under this title shall be notified of approval or disapproval in writing within thirty days after the date its completed application is filed. If an institution submits an incomplete application to the State, the State shall so notify the institution within fifteen days of receipt of the application, and shall provide technical assistance, if necessary, to the institution for the purpose of completing its application.

CASH ASSISTANCE TO STATES

SEC. 905. (a) For the fiscal year ending September 30, 1979, and for each subsequent fiscal year, the Secretary shall provide cash assistance to States for meals served by institutions in the manner specified in subsection (b) of this section, except that, in any fiscal year, the aggregate amount of assistance provided to a State by the Secretary under this title shall not exceed the sum of (1) the Federal funds provided by

the State to participating institutions within the State for that fiscal year, and (2) any funds used by the State under section 1703 of title XVII of this Act.

(b) The Secretary shall provide assistance to each State in the following manner:

(1) For meals served to children in institutions, other than family or group day care home sponsoring organizations, where no less than two-thirds of the children enrolled are members of families that satisfy the income standards for free and reduced price school lunches and breakfasts under section 308 of title III and section 407 of title IV of this Act, each State shall receive an amount equal to the sum of the products obtained by multiplying—

(A) (i) the total number of breakfasts served in the State in these institutions by (ii) the sum of the national average payment rate for breakfasts and the national average payment rate for free breakfasts under section 403 of title IV of this Act;

(B) (i) the total number of lunches and suppers served in the State in these institutions by (ii) the sum of the national average general assistance payment rate for lunches under section 302 of title III of this Act, and the national average special assistance payment rate for free lunches under section 303 of title III of this Act; and

(C) (i) the total number of supplements served in the State in these institutions by (ii) the national average payment rate for supplements served in such institutions.

For the six-month period ending June 30, 1978, the national average payment rate for supplements served in these institutions shall be 23.75 cents. For supplements served in these institutions thereafter, the Secretary shall prescribe adjustments to this national average payment rate on July 1 and January 1 of each year. Such adjustments shall be computed to the nearest one-fourth cent based on changes, measured over the most recent six-month period for which data are available, in the series for food away from home of the Consumer Price Index for All Urban Consumers.

(2) For meals served to children in institutions, other than family or group day care home sponsoring organizations, where less than two-thirds but not less than one-third of the children enrolled are members of families that satisfy the income standards for free and reduced price school lunches under section 308 of title III of this Act, each State shall receive an amount equal to the sum of the products obtained by multiplying—

(A) (i) the total number of breakfasts served in the State in these institutions by (ii) the sum of the national average payment rate for reduced price breakfasts under section 403 of title IV of this Act;

(B) (i) the total number of lunches and suppers served in the State in these institutions by (ii) the sum of the national average general assistance payment rate for lunches under section 302 of title III of this Act and the national average special assistance payment rate for reduced price lunches under section 303 of title III of this Act; and

(C) (i) the total number of supplements served in the State in these institutions by (ii) the national average payment rate for supplements served in such institutions.

For the six-month period ending June 30, 1978, the national average payment rate for supplements served in these institutions shall be 18 cents. The Secretary shall prescribe adjustments to this national average payment rate on July 1 and January 1 of each year. Such adjustments shall be computed to the nearest one-fourth cent based on changes, measured over the most recent six-month period for which data are available, in the series for food away from home of the Consumer Price Index for All Urban Consumers.

(3) For meals served to children in institutions, other than family or group day care home sponsoring organizations and institutions electing to use the optional reimbursement procedures under subsection 906(c) of this title, where less than one-third of the enrolled children are members of families that satisfy the income standards for free and reduced price school lunches under section 308 of title III of this Act, each State shall receive an amount equal to the sum of the products obtained by multiplying—

(A) (i) the total number of breakfasts served in the State in these institutions by (ii) the national average payment rate for breakfasts under section 403 of title IV of this Act;

(B) (i) the total numbers of lunches and suppers served in the State in these institutions by (ii) the national average general assistance payment rate for lunches under section 302 of title III of this Act; and

(C) (i) the total number of supplements served in the State in these institutions by (ii) the national average payment rate for supplements in such institutions.

For the six-month period ending June 30, 1978, the national average payment rate for supplements served in these institutions shall be 6 cents. The Secretary shall prescribe adjustments to this national average payment rate on July 1 and January 1 of each year. Such adjustments shall be computed to the nearest one-fourth cent based on changes, measured over the most recent six-month period for which data are available, in the series for food away from home of the Consumer Price Index for All Urban Consumers.

(4) For meals served to children in institutions electing to use the reimbursement procedures under subsection 906(c) of this title, each State shall receive assistance in the following manner:

(A) for meals served to children who are members of families that satisfy the income standards for free school meals under section 308 of title III of this Act, each State shall receive an amount equal to the sum of the products obtained by multiplying—

(i) (I) the number of breakfasts served by (II) the sum of the national average payment rate for breakfasts and the national average payment rate for free breakfasts under section 403 of title IV of this Act;

(ii) (I) the number of lunches and suppers served by (II) the sum of the national average general assistance payment rate for lunches under section 302 of title III of this Act and the national average special assistance payment rate for free lunches under section 303 of title III of this Act; and

(iii) (I) the number of supplements served by (II) the national average payment rate for supplements determined under clause (C) of paragraph (1) of this subsection;

(B) for meals served to children who are members of families that satisfy the income standards for reduced price lunches under section 308 of title III of this Act, each State shall receive an amount equal to the sum of the products obtained by multiplying—

(i) (I) the number of breakfasts served by (II) the sum of the national average payment rate for breakfasts and the national average payment rate for reduced price breakfasts under section 403 of title IV of this Act;

(ii) (I) the number of lunches and suppers served by (II) the sum of the national average general assistance payment rate for lunches under section 302 of title III of this Act and the national average special assistance payment rate for reduced price lunches under section 303 of title III of this Act;

(iii) (I) the number of supplements served by (II) the national average payment rate for supplements determined under clause (C) of paragraph (2) of this subsection; and

(C) for meals served to all other children in these institutions, each State shall receive an amount equal to the sum of the products obtained by multiplying—

(i) (I) the number of breakfasts served to such children by (II) the national average payment rate for breakfasts under section 403 of title IV of this Act;

(ii) (I) the number of lunches and suppers served to such children by (II) the national average general assistance payment rate for lunches under section 302 of title III of this Act; and

(iii) (I) the number of supplements served to such children by (II) the national average payment rate for supplements determined under clause (C) of paragraph (3) of this subsection.

(5) For meals served in family or group day care homes, each State shall receive amounts sufficient to make payments for such meals under subsection 906(d) of this title.

STATE DISBURSEMENTS TO INSTITUTIONS

SEC. 906. (a) Funds paid to any State under this title shall be disbursed to eligible institutions by the State under agreements approved by the Secretary. Disbursements to any institution shall be made only for the purpose of assisting in financing the cost of providing meals to children attending institutions, or in family or group day care homes. Disbursements to any institution shall not be dependent upon the collection of moneys from participating children. All valid claims from such institutions shall be paid within forty-five days of receipt by the State. The State shall notify the institution within fifteen days of receipt of a claim if the claim as submitted is not valid because it is incomplete or incorrect.

(b) The Secretary shall establish maximum per meal reimbursement rates for each of the three categories of institutions specified in subsections 905(b) (1), (2), and (3) of this title. Such maximum reimbursement rates for lunches and suppers shall be equal to the maximum reimbursement rates established by the Secretary for lunches served under the national school lunch program. The disbursement to any institution for meals provided under this title shall not be less, for any fiscal year, than the sum of the products obtained by multiplying the total number of each type of meal (breakfast, lunch or supper, or supplement) served in such institution in that fiscal year by the applicable national average payment rates for States for each such type of meal at that category of institution, unless the resulting sum exceeds the cost to the institution of providing such meals.

(c) Institutions, other than family or group day care home sponsoring organizations, may elect to receive reimbursement in accordance with the eligibility of each enrolled child for free, reduced price, or paid lunches under section 309 of title III of this Act. Such reimbursement shall be based on (1) the national average general assistance payment rate for lunches under section 302 of title III of this Act; (2) the national average special assistance payment rates for free lunches and reduced price lunches under section 303 of title III of this Act; (2) the national average payment rates for breakfasts, free breakfasts, and reduced price breakfasts under section 403 of title IV of this Act; and (4) the national average payment rates for supplements under section 905 of this title. Reimbursements to such institutions shall be made under the same procedures for determining such reimbursement levels as were prescribed by regulations in effect on September 30, 1978.

(d) Institutions that participate in the program under this title as family or group day care home sponsoring organizations shall

be provided, for payment to such homes, a reimbursement factor in an amount determined by the Secretary to be adequate to cover the cost of obtaining and preparing food and prescribed labor costs, involved in providing meals under this title, without a requirement for documentation of such costs. Such institutions shall also receive reimbursement for their administrative expenses. Reimbursement for administrative expenses shall not exceed maximum allowable levels prescribed by the Secretary.

STARTUP FUNDS

SEC. 907. (a) Startup funds shall be payable to enable institutions satisfying the criteria of section 904 of this title, and any other standards prescribed by the Secretary, to develop an application for participation in the child care food program as a family or group day care home sponsoring organization or to implement the program upon approval of the application. Such startup funds shall be payable in accordance with the procedures prescribed by the Secretary. The amount of startup funds payable to an institution shall be not less than the institution's anticipated reimbursement for administrative expenses under the program for one month and not more than the institution's anticipated reimbursement for administrative expenses under the program for two months.

(b) Reimbursement for administrative expenses of institutions that participate in the child care food program under this title as family or group day care home sponsoring organizations shall include startup funds to finance the administrative expenses for such institutions to initiate successful operation under the program. Such startup funds shall be in addition to other reimbursement to such institutions for administrative expenses.

ADVANCE PAYMENTS

SEC. 908. By the first day of each month of operation, the State shall provide advance payments for the month to each approved institution in an amount that reflects the full level of valid claims customarily received from such institution for one month's operation. In the case of a newly participating institution, the amount of the advance shall reflect the State's best estimate of the level of valid claims such institution will submit. If the State has reason to believe that an institution will not be able to submit a valid claim covering the period for which such an advance has been made, the subsequent month's advance payment shall be withheld until the State receives a valid claim. Payments advanced to institutions that are not subsequently deducted from a valid claim for reimbursement shall be repaid upon demand by the State. Any prior payment that is under dispute may be subtracted from an advance payment.

FAIR HEARINGS

SEC. 909. The State shall provide, in accordance with regulations issued by the Secretary, a fair hearing and a prompt determination to any institution aggrieved by the action of the State as it affects the participation of such institution in the program authorized by this title, or its claim for reimbursement under this title.

STANDARD FORM OF AGREEMENT

SEC. 910. The Secretary may issue regulations directing States to develop and provide for the use of a standard form of agreement between each family or group day care sponsoring organization and the family or group day care homes participating in the program under such organization, for the purpose of specifying the rights and responsibilities of each party.

MEAL AND SERVICE REQUIREMENTS

SEC. 911. (a) Meals served by institutions participating in the program under this title shall consist of a combination of foods that meet minimum nutritional requirements prescribed by the Secretary on the basis of tested nutritional research.

(b) No institution may be prohibited from serving breakfast, lunch, supper, and supplements to any eligible child each day, except in the case of institutions that provide care to school children outside of school hours.

(c) Meals shall be served free to needy children.

(d) No physical segregation or other discrimination against any child shall be made because of his or her inability to pay, nor shall there be any overt identification of any such child by special tokens or tickets, different meals or meal service, announced or published lists of names, or other means.

(e) Each institution shall, insofar as practicable, use in its food service foods designated from time to time by the Secretary as being in abundance, either nationally or in the food service area, or foods donated by the Secretary.

EQUIPMENT ASSISTANCE FOR INSTITUTIONS

SEC. 912. (a) Of the sums appropriated for each fiscal year to carry out the purposes of this title, $6,000,000 shall be available to the Secretary for the purposes of providing equipment assistance to enable institutions to establish, maintain, and expand the child care food program. The Secretary shall allocate among the States during each fiscal year the funds available under this section. Such allocation shall be based on the ratio of the number of children below the age of six in each State who are members of families that satisfy the income standards for free and reduced price school meals under section 308 of title III of this Act to the number of such children in all States. In making such allocation, the Secretary shall use the most recent data available.

(b) If any State cannot use all of the funds allocated to it under this section, the Secretary shall make reallocations to the remaining States in the manner set forth in paragraph (a) of this section for allocating funds. Payments to any State of funds allocated under this section for any fiscal year shall be made upon condition that at least one-fourth of the cost of equipment financed under this section shall be financed from sources within the State, except that this condition shall not apply to equipment obtained for institutions that are especially needy, as determined by the State.

(c) Each State shall establish criteria for determining institutions that are especially needy for purposes of this section and shall inform all institutions within the State of those criteria. Such criteria shall be submitted to the Secretary for approval and be included in the State plan of operation for the child care food program required by section 1004 of title X of this Act.

(d) Within thirty days of notification by the Secretary of the State of the amount of funds available under this section, the State shall notify institutions of the availability of funds for food service equipment. The Secretary shall establish standards to assure prompt action by States on requests by institutions for such funds and shall also prescribe a priority system to be followed by States in allocating funds under this section.

(e) The Secretary shall issue regulations authorizing the State to disburse funds under this section directly to a supplier of food service equipment if the funds are used to purchase equipment for an institution that (1) meets all the requirements for participation under this title, except for the licensing requirements, and (2) satisfies all the requirements for licensing, except for a requirement for food service equipment. The State shall retain legal title to such equipment until the State and the institution sign an agreement authorizing the institution to participate in the program under this title.

STATE AUDIT EXPENSE

SEC. 913. The Secretary shall make available for each fiscal year to States administering the program under this title, for the purpose of conducting audits of participating institutions, an amount up to 2 per centum of the funds used by each State in the program under this title during the second preceding fiscal year.

STATE AFFIRMATIVE ACTION

SEC. 914. States participating in the program under this title shall provide sufficient training, technical assistance, and monitoring to facilitate expansion and effective operation of the program, and shall take affirmative action to expand the availability of benefits under this title. Such action, at a minimum, shall include annual notification to each nonparticipating institution or family or group day care home within the State that is licensed, approved, or registered, or that receives funds under title XX of the Social Security Act, of the availability of the program, the requirements for program participation, the availability of food service equipment funds under the program, and the application procedures to be followed in the program. The list of institutions so notified each year shall be available to the public upon request. The Secretary shall assist the States in developing plans to fulfill the requirements of this section.

STUDIES

SEC. 915. (a) The Secretary shall study the administrative costs of institutions participating in the program under this title, including the cost effect of such factors as the types of institutions, the number of children served, and the location of institutions in urban or rural areas. The Secretary may prescribe maximum allowable levels of administrative payments that reflect the costs of institutions participating in the program.

(b) The Secretary shall conduct a study of the food service operations carried out in the program under this title. Such study shall include, but not be limited to (1) an evaluation of meal quality as related to costs; and (2) a determination of whether maximum reimbursement levels should be set for food service costs, including whether different reimbursement levels should be established for self-prepared meals and vendored meals, economies of scale, and differences between food service operations in institutions and family and group day care homes.

(c) The Secretary shall conduct a study on licensing problems faced by institutions and family or group day care homes. Such study shall include, but not be limited to, an evaluation of the licensing requirements under this title.

(d) Of the funds appropriated for the fiscal year ending September 30, 1979, to carry out the purposes of this title not to exceed $2,000,000 shall be available to the Secretary for the purpose of conducting the studies required under paragraphs (a), (b), and (c) of this section. The Secretary shall report the results of such studies to Congress, along with any recommendations the Secretary wishes to make, not later than eighteen months after enactment of the Child Nutrition Amendments of 1978.

TITLE X—STATE PLANS OF OPERATION—SCHOOLS, SERVICE INSTITUTIONS—INSTITUTIONS

SEC. 1001. Each year by not later than a date specified by the Secretary, each State educational agency shall submit to the Secretary, for approval by him as a prerequisite to receipt of Federal funds or any commodities donated by the Secretary for use in programs under this Act, a State plan of child nutrition operations for the following school year, which shall include, as a minimum, a

description of the manner in which the State educational agency proposes to use the funds provided under this Act and funds from sources within the State to furnish a free or reduced price lunch to every needy child in accordance with the provisions of title III of this Act; to extend the school lunch program under this Act to every school within the State; and to use the funds provided under titles IV, VIII, and IX of this Act and funds from sources within the State to the maximum extent practicable to reach needy children.

SCHOOL BREAKFAST PROGRAM

SEC. 1002. The State plan of child nutrition operations required under section 1001 of this title shall include the eligibility standards established by the State educational agency for providing additional assistance under the school breakfast program to schools in severe need, as required under subsection 405(d) of title IV of this Act.

SUMMER FOOD SERVICE PROGRAM

SEC. 1003. Each year, not later than February 15, each State desiring to participate in the summer food service program under title VIII of this Act shall submit for approval a management and administration plan for the program for the fiscal year which shall include, but not be limited to (a) the State's administrative budget for the fiscal year, and the State's plans to comply with any standards prescribed by the Secretary under subsection 814(b) of title VIII of this Act; (b) the State's plans for use of program funds and funds from within the State to the maximum extent practicable to reach needy children, including the State's methods for assessing need, and its plans and schedule for informing service institutions of the availability of the program; (c) the State's best estimate of the number and character of service institutions and sites to be approved, and of meals to be served and children to participate for the fiscal year, and a description of the estimating methods used; (d) the State's plans and schedule for providing technical assistance and training eligible service institutions; (e) the State's schedule for application by service institutions; (f) the actions to be taken to maximize the use of meals prepared by service institutions and the use of school food service facilities; (g) the State's plans for monitoring and inspecting service institutions, feeding sites, and food service management companies and for ensuring that such companies do not enter into contracts for more meals than they can provide effectively and efficiently; (h) the State's plan and schedule for registering food service management companies; (i) the State's plan for timely and effective action against program violators; (j) the State's plan for determining the amounts of program payments to service institutions and for disbursing such payments; (k) the State's plan for ensuring fiscal integrity by auditing service institutions not subject to auditing requirements prescribed by the Secretary; and (l) the State's procedure for granting a hearing and prompt determination to any service institution wishing to appeal a State ruling denying the service institution's application for program participation or for program reimbursement.

CHILD CARE FOOD PROGRAM

SEC. 1004. For the child care food program, the State plan required under section 1001 of this title shall provide, in addition to other information required by regulation or available from regular reporting—

(a) the number of institutions and the number of family or group day care homes participating in the program, together with the average daily attendance in such institutions;

(b) the number of institutions and the number of family or group day care homes in the State that are licensed, approved, or registered or that receive funds under title XX of the Social Security Act, and the number of such institutions and homes that participate in the program authorized under this section;

(c) the action program the State proposes to undertake to use the Federal funds provided under title IX of this Act, including the State's plans to (1) extend the child care food program to all eligible institutions (placing priority on reaching institutions in needy areas first), (2) assist family or group day care homes in obtaining sponsoring organizations, and (3) encourage eligible institutions to participate in such program;

(d) a plan for the conduct of audits; and

(e) a plan to monitor program performance and measure progress in achieving program goals.

TITLE XI—MISCELLANEOUS PROGRAM PROVISIONS

NONPROFIT PROGRAMS

SEC. 1101. The food and milk service programs in schools and nonprofit institutions receiving assistance under titles III, IV, and VI of this Act shall be conducted on a nonprofit basis.

PRESCHOOL PROGRAMS

SEC. 1102. The Secretary may extend the benefits of all school feeding programs conducted and supervised by the Department of Agriculture to include preschool programs operated as part of the school system.

PROHIBITION REGARDING INSTRUCTION

SEC. 1103. In carrying out the food and milk service equipment provisions of titles III, IV, VI, and VII of this Act, neither the Secretary nor the State shall impose any requirement with respect to teaching personnel, curriculum, instruction, methods of instruction, and materials of instruction.

STATE AND LOCAL EXPENDITURES

SEC. 1104. Expenditures of funds from State and local sources for the maintenance of food programs for children shall not be diminished as a result of funds received under titles IV, VI, VII, VIII, and IX of this Act.

VALUE OF ASSISTANCE

SEC. 1105. The value of assistance to children under this Act shall not be considered to be income or resources for any purpose under any Federal or State laws including, but not limited to, laws relating to taxation, welfare, and public assistance programs.

SEPARATE COST ACCOUNTING

SEC. 1106. No provision of this Act shall be construed to require any school receiving funds under this Act to account separately for the cost incurred in the school lunch and school breakfast programs. In no event, however, shall reimbursement to school food authorities exceed the net cost of operating both the lunch and breakfast programs, taking into account the total costs and total incomes of both programs.

STATE ADVISORY COUNCILS

SEC. 1107. Each State educational agency that receives food assistance payments under this Act for any school year shall establish for such year an advisory council, which shall be composed of representatives of schools in the State that participate in the school lunch program. The council shall advise such State agency with respect to the needs of such schools relating to the manner of selection and distribution of food assistance for such program.

TITLE XII—FEDERAL ADMINISTRATION OF PROGRAMS

SCHOOL LUNCH PROGRAM

SEC. 1201. If, in any State, the State educational agency is not permitted by law to disburse the funds paid to it under title III to any of the schools in the State, or is not permitted by law to match Federal funds made available for use by such schools, the Secretary shall disburse the funds directly to such schools within the State for the same purposes and subject to the same conditions as are authorized or required with respect to the disbursements to schools within the State by the State educational agency, including the requirement that payments shall be matched, in the proportion specified in section 305 of title III of this Act for such State, by funds from sources within the State expended by such schools within the State participating in the school lunch program under title III of this Act. Such funds shall not be considered a part of the funds constituting the matching funds under the terms of section 305 of title III of this Act.

SCHOOL BREAKFAST PROGRAM

SEC. 1202. The Secretary shall make payments from the sum appropriated for any fiscal year for the purposes of title IV of this Act directly to the schools which are private and nonprofit (as defined in title II of this Act) within a State, that participate in the breakfast program under an agreement with the Secretary, for the same purposes and subject to the same conditions as are authorized or required under title IV of this Act with respect to the disbursements by State educational agencies.

FOOD SERVICE EQUIPMENT ASSISTANCE PROGRAM FOR SCHOOLS

SEC. 1203. (a) If, in any State, the State educational agency is prohibited by law from administering the food service equipment assistance program for schools authorized by title VII of this Act in nonprofit private schools within the State, the Secretary shall administer such program in such private schools, in the same manner and subject to the same conditions as are authorized or required with respect to disbursements to schools within the State by the State educational agency.

(b) In those States in which the Secretary administers the food service equipment assistance program in nonprofit private schools, the Secretary shall withhold from the funds apportioned to any such State under the provisions of section 702 of title VII of this Act an amount which bears the same ratio to such funds as the number of lunches (consisting of a combination of foods which meet the minimum nutritional requirements prescribed by the Secretary pursuant to section 310 of title III of this Act) served in nonprofit private schools in such State, in the latest preceding school year for which the Secretary determines data are available at the time such funds are withheld, bears to the total number of such lunches served in all schools within such State in such preceding school year.

(c) In those States in which the Secretary administers the food service equipment program in nonprofit private schools, the Secretary shall withhold from the funds apportioned to any such State under section 704 of title VII of this Act an amount which bears the same ratio to such funds as the number of children enrolled in nonprofit private schools without a food service program or moving toward the initiation of the service of breakfasts in such State bears to the total number of children enrolled in all schools without a food service program or moving toward the initiation of the service of breakfasts in such State.

SUMMER FOOD SERVICE PROGRAM

SEC. 1204. If any State (1) is unable for any reason to disburse the funds otherwise payable to it under title VIII of this Act, or (2) does not operate the program in accordance with the requirements of title VIII of this Act, the Secretary shall assume authority for administration of the summer food service program under such title in such

State, and shall disburse the funds directly to service institutions in the State for the same purposes and subject to the same conditions as are required of a State disbursing funds made available under title VIII of this Act.

CHILD CARE FOOD PROGRAM

SEC. 1205. In any State where the State is not permitted by law or is otherwise unable to disburse the funds payable to it under title IX of this Act to any institution in the State, the Secretary shall withhold all funds to which such State would be entitled and shall use such funds for the same purposes and subject to the same conditions as are required of a State.

NUTRITION EDUCATION AND TRAINING

SEC. 1206. Notwithstanding any other provision of title XVI of this Act, if, in any State, the State educational agency is prohibited by law from administering the program authorized by that title in nonprofit private schools and institutions, the Secretary may administer the program with respect to such schools and institutions.

RETENTION OF STATE ADMINISTRATIVE FUNDS

SEC. 1207. Where the Secretary is responsible for the administration of programs under this Act, the amount of funds that would be allocated to the State agency for administrative services under title XIII and under section 814(a) of title VIII of this Act shall be retained by the Secretary for the Secretary's use in the administration of such programs.

TITLE XIII—STATE ADMINISTRATIVE EXPENSES

ALLOCATIONS TO STATES

SEC. 1301. (a) Each fiscal year, the Secretary shall make available to the States for their administrative costs an amount equal to not less than 1½ per centum of the Federal funds expended under sections 302 and 303 of title III of this Act, and under titles IV, VI, VII, and IX of this Act during the second preceding fiscal year. The Secretary shall allocate the funds so provided in accordance with paragraphs (b), (c), and (d) of this section.

(b) The Secretary shall allocate to each State for administrative costs incurred in any fiscal year in connection with the programs authorized under this Act, except for the programs authorized under titles VIII, IX, and XIV of this Act, an amount equal to not less than 1 percent and not more than 1½ per centum of the funds expended by each State under sections 302 and 303 of title III of this Act and under titles IV, VI, and VII of this Act during the second preceding fiscal year. In no case shall the grant available to any State under this section be less than the amount such State was allocated in the fiscal year ending September 30, 1978, or $100,000, whichever is larger.

(c) The Secretary shall allocate to each State for its administrative costs incurred under that program authorized by title IX of this Act in any fiscal year an amount, based upon funds expended under that program in the second preceding fiscal year, equal to (1) 20 per centum of the first $50,000, (2) 10 per centum of the next $100,000, (3) 5 per centum of the next $250,000, and (4) 2½ per centum of any remaining funds. The Secretary may adjust any State's allocation to reflect changes in the size of its program.

(d) The remaining funds appropriated for the purposes of this title shall be allocated among the States by the Secretary in amounts the Secretary determines necessary for the improvement in the States of the administration of the programs authorized under this Act, except for title XIV of this Act, including, but not limited to, improved program integrity and the quality of meals served to children.

(e) If any State agency agrees to assume responsibility for the administration of food service programs in nonprofit private schools or child care institutions that were previously administered by the Secretary, an appropriate adjustment shall be made in the administrative funds paid under this title to the State not later than the succeeding fiscal year.

REALLOCATION OF FUNDS

SEC. 1302. The Secretary shall reallocate any unused funds, as evidenced by the plans for disbursement of funds submitted by the State under subsection 1305(b) of this title.

MAINTENANCE OF STATE FUNDING

SEC. 1303. Payments of funds under this title shall be made only to States that agree to maintain a level of funding out of State revenues, for administrative costs in connection with programs under this Act (except titles VIII and XIV of this Act), not less than the amount expended or obligated in fiscal year 1977.

USE OF FUNDS BY STATES

SEC. 1304. (a) Funds available to States under this title and under subsection 814(a) of title VIII of this Act shall be used for the costs of administration of the programs for which the allocations are made, except that States may transfer up to 10 per centum of any of the amounts allocated among such programs.

(b) Funds paid to a State under this title may be used to pay salaries, including employee benefits and travel expenses, for administrative and supervisory personnel; for support services; for office equipment; and for staff development.

(c) Notwithstanding any other provision of law, funds available to each State under this title for fiscal year 1978 that are not obligated or expended in that fiscal year shall remain available for obligation and expenditure by that State in fiscal year 1979.

(d) The State may use a portion of the funds available under this title to assist in the administration of the commodity distribution program.

PLANS FOR USE OF FUNDS

SEC. 1305. (a) Each State shall submit to the Secretary for approval by October 1 of each year an annual plan for the use of State administrative expense funds including a staff formula for State personnel, system level supervisory and operating personnel, and school level personnel.

(b) For fiscal year 1979, and the succeeding fiscal year, the Secretary shall establish a date by which each State shall submit to the Secretary a plan for the disbursement of funds provided under this title for each such year.

STATE STAFFING STANDARDS

SEC. 1306. The Secretary, in cooperation with the several States, shall develop State staffing standards for the administration by each State of titles III, IV, VI, VII, and IX of this Act, that will ensure sufficient staff for the planning and administration of programs covered by State administrative expenses.

TITLE XIV—SPECIAL SUPPLEMENTAL FOOD PROGRAM

STATEMENT OF PURPOSE

SEC. 1401. Congress finds that substantial numbers of pregnant, postpartum, and breastfeeding women, infants, and young children from families with inadequate income are at special risk with respect to their physical and mental health by reason of inadequate nutrition or health care, or both. It is, therefore, the purpose of the program authorized by this title to provide supplemental foods and nutrition education through any eligible local agency that applies for participation in the program. The program shall serve as an adjunct to good health care, during critical times of growth and development, to prevent the occurrence of health problems and improve the health status of these persons.

DEFINITIONS

SEC. 1402. As used in this title—

(a) "Administrative costs" means costs that shall include, but not be limited to, costs for certification of eligibility of persons for participation in the program; centrifuges, measuring boards, spectrophotometers, and scales used for such certification; food delivery; monitoring; nutrition education; outreach; startup costs; and general administration applicable to implementation of the program under this title, such as the cost of staff, warehouse facilities, transportation, insurance, developing and printing food instruments, and administration of State and local agency offices.

(b) "Breastfeeding women" means women up to one year postpartum who are breastfeeding their infants.

(c) "Children" means persons who have had their first birthday but have not yet attained their fifth birthday.

(d) "Competent professional authority" means physicians, nutritionists, registered nurses, dietitians, or State or local medically trained health officials, or persons designated by physicians or State or local medically trained health officials, in accordance with standards prescribed by the Secretary, as being competent professionally to evaluate nutritional risk.

(e) "Infants" means persons under one year of age.

(f) "Local agency" means a public health or welfare agency or a private nonprofit health or welfare agency, which, directly or through an agency or physician with which it has contracted, provides health services. The term shall include an Indian tribe, band, or group recognized by the Department of the Interior, the Indian Health Service of the Department of Health, Education, and Welfare, or an intertribal council or group that is an authorized representative of Indian tribes, bands, or groups recognized by the Department of the Interior.

(g) "Nutrition education" means individual or group sessions and the provision of materials designed to improve health status that achieve positive change in dietary habits, and emphasize the individual's personal, cultural, and socioeconomic preferences.

(h) "Nutritional risk" means (1) detrimental or abnormal nutritional conditions detectable by biochemical or anthropometric measurements, (2) other documented nutritionally related medical conditions, (3) dietary deficiencies that impair or endanger health, or (4) conditions that predispose persons to inadequate nutritional patterns or nutritionally related medical conditions, including, but not limited to, alcoholism and drug addiction.

(i) "Plan of operation and administration" means a document that describes the manner in which the State agency intends to implement and operate the program under this title.

(j) "Post partum women" means women up to six months after termination of pregnancy.

(k) "Pregnant women" means women determined to have one or more fetuses in utero.

(l) "State agency" means the health department or comparable agency of each State; an Indian tribe, band, or group recognized by the Department of the Interior; an intertribal council or group that is the authorized representative of Indian tribes, bands, or groups recognized by the Department of the Interior; or the Indian Health Service of the Department of Health, Education, and Welfare.

(m) "Supplemental foods" means those foods containing nutrients determined by nutritional research to be lacking in the diets of pregnant, breastfeeding, and post partum

women, infants, and children, as prescribed by the Secretary.

PROGRAM AUTHORIZATION

SEC. 1403. (a) The Secretary shall carry out a special supplemental food program to assist State agencies to provide, through local agencies, at no cost, supplemental foods and nutrition education to low-income pregnant, post partum, and breastfeeding women, infants, and children who satisfy the eligibility requirements specified in section 1407 of this title. The program shall be supplementary to the food stamp program (91 Stat. 958) and to any program under which foods are distributed to needy families in lieu of food stamps.

(b) Subject to amounts appropriated for the program under this title for the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982—

(1) the Secretary shall make cash grants to State agencies for the purpose of administering the program, and

(2) any State agency approved eligible local agency that applies to participate in or expand the program under this title shall immediately be provided with the necessary funds to carry out the program.

(c) Nothing in this section shall be construed to permit the Secretary to reduce ratably the amount of foods that an eligible local agency shall distribute under the program to participants. The Secretary shall take affirmative action to ensure that the program is instituted in areas most in need of supplemental foods. The existence of a commodity supplementary food program under section 1304 of the Food and Agriculture Act of 1977 shall not preclude the approval of an applicant from an eligible local agency to participate in the program under this title nor the operation of such program within the same geographic area as that of the commodity supplemental food program, but the Secretary shall issue such regulations as are necessary to prevent dual receipt of benefits under the commodity supplemental food program and the program under this title.

ALLOCATIONS TO STATE AGENCIES

SEC. 1404. By the beginning of each fiscal year, the Secretary shall divide, among the State agencies, the funds appropriated for the purposes of this title on the basis of a formula determined by the Secretary. Each State agency's allocation, as so determined, shall constitute the State agency's authorized operational level for that year, except that the Secretary shall reallocate funds periodically if the Secretary determines that a State agency is unable to spend its allocation. For purposes of the formula, if Indians are served by the health department of a State, the formula shall be based on the State population inclusive of the Indians within the State boundaries. If Indians residing in the State are served by a State agency other than the health department of the State, the population of the tribes within the jurisdiction of the State being so served shall not be included in the formula for such State, and shall instead be included in the formula for the State agency serving the Indians. Notwithstanding any other provision of this title, the Secretary may use a portion of a State agency's allocation to purchase supplemental foods for donation to the State agency under this title.

STATE PLAN OF OPERATION

SEC. 1405. (a) Each State agency shall submit annually to the Secretary, by a date specified by the Secretary, a plan of operation and administration for approval by the Secretary as a prerequisite to receiving funds under this title. The plan shall include, among such other information as the Secretary may require—

(1) a description of how the State agency will distribute administrative funds, including start-up funds, to local agencies operating under the program;

(2) a description of the State agency's financial management system;

(3) a description of methods used to determine nutritional risk;

(4) a budget for administrative funds;

(5) the staffing pattern;

(6) nutrition education goals and action plans, including a description of the methods that will be used to meet the special nutrition education needs of migrants and Indians;

(7) plans to provide program benefits under this title to eligible migrants and Indians;

(8) a list of all areas and special populations, in priority order based on relative need, within the jurisdiction of the State agency, and the State agency's plans to initiate or expand operations under the program in areas most in need of supplemental foods, including plans to inform nonparticipating local agencies of the availability and benefits of the program and the availability of technical assistance in implementing the program, and a description of how the State agency will take all reasonable actions to identify potential local agencies and encourage such agencies to implement or expand operations under the program within the following year in the neediest one-third of all areas unserved or partially served;

(9) a description of how the State agency's delivery system will enable low-income persons to receive supplemental foods under the program, in accordance with standards developed by the Secretary;

(10) the State agency's plans for informing eligible persons of the program in accordance with subsection 1409(c) of this title;

(11) a description of how the State agency plans to coordinate operations under the program with special counseling services such as, but not limited to, the expanded food and nutrition education program, family planning, immunization, prenatal care, well-child care, alcohol and drug abuse counseling, child abuse counseling, and with the food stamp program; and

(12) a copy of the procedure manual developed by the State agency for the program.

(b) The Secretary shall not approve any plan that permits any person to participate simultaneously in both the program authorized under this section and the commodity supplemental food program under section 1304 of the Food and Agriculture Act of 1977.

(c) Not less than one month prior to the submission to the Governor of the plan of operation and administration required by this section, the State agency shall conduct hearings to enable the general public to participate in the development of the State agency plan.

STATE AND LOCAL AGENCY APPLICATION

SEC. 1406. The State agency, upon receipt of a completed application from a local agency for participation in the program (and the Secretary, upon receipt of a completed application from a State agency), shall notify the applicant agency in writing within thirty days of the approval or disapproval of the application, and any disapproval shall be accompanied with a statement of the reasons for such disapproval. Within fifteen days after receipt of an incomplete application, the State agency (or the Secretary) shall notify the applicant agency of the additional information needed to complete the application.

INDIVIDUAL ELIGIBILITY

SEC. 1407. (a) Participation in the program under this title shall be limited to pregnant, postpartum, and breastfeeding women, infants, and children from low-income families who are determined by a competent professional authority to be at nutritional risk.

(b) The Secretary shall establish income eligibility standards to be used in conjunction with the nutritional risk criteria in determining eligibility of persons for participation in the program. Persons at nutritional risk shall be eligible for the program only if they are members of families that satisfy the income standards prescribed for free and reduced-price school lunches under section 308 of title III of this Act.

(c) Persons shall be certified for participation in accordance with general procedures prescribed by the Secretary.

(d) If a person certified as eligible for participation in the program under this title in one area moves to another area in which the program is operating, that person's certification of eligibility shall remain valid for the period for which the person was originally certified.

(e) Local agencies participating in the program under this title shall notify persons of their eligibility or ineligibility for the program within twenty days of the date that the household, during office hours of a local agency, personally makes an oral or written request to participate in the program. The Secretary shall establish a shorter notification period for categories of persons who, due to special nutritional risk conditions, must receive benefits more expeditiously.

MIGRANTS

SEC. 1408. (a) The Secretary shall establish procedures under which eligible migrants may, to the maximum extent feasible, continue to participate in the program under this title when they are present in States other than the State in which they were originally certified for participation in the program. Each State agency shall be responsible for administering the program for migrant populations within its jurisdiction.

(b) By October 1 of each year, the Secretary shall prepare a report describing plans to ensure that, to the maximum extent feasible, eligible members of migrant populations continue to participate in the program as such persons move among States. The report shall be made available to the National Advisory Council on Maternal, Infant, and Fetal Nutrition established under section 2002 of title XX of this Act.

INFORMATION AND EDUCATION

SEC. 1409. (a) The State agency shall ensure that nutrition education is provided to all pregnant, postpartum, and breastfeeding participants in the program and to parents or caretakers of infant and child participants in the program. The State agency may also provide nutrition education to pregnant, postpartum, and breastfeeding women and to parents or caretakers of infants and children enrolled at local agencies operating the program under this title but who do not participate in the program. The Secretary shall prescribe standards to ensure that adequate nutrition education services are provided. The State agency shall provide training to persons providing nutrition education under this title. Nutrition education shall be evaluated annually by each State agency, and such evaluation shall include the views of participants concerning the effectiveness of the nutrition education they have received.

(b) The Secretary shall, after submitting proposed nutrition education materials to the Secretary of Health, Education, and Welfare for comment, issue such materials for use in the program under this title.

(c) The State agency shall, in cooperation with participating local agencies, publicize the availability of program benefits, including the eligibility criteria for participation and the location of local agencies operating the program. Such information shall be publicly announced by the State agency and by local agencies at least annually. Such information shall also be distributed to offices and organizations that deal with significant numbers of potentially eligible persons, including health and medical organizations,

hospitals and clinics, welfare and unemployment offices, social service agencies, farmworker organizations, Indian tribal organizations, and religious and community organizations in low-income areas.

(d) The State agency shall (1) provide nutrition education materials and instruction in languages other than English and (2) use appropriate foreign language materials in the administration of the program, in areas in which a substantial number of low-income households speak a language other than English.

FAIR HEARING

SEC. 1410. The State agency shall grant a fair hearing, and a prompt determination thereafter, in accordance with regulations issued by the Secretary, to any applicant, participant, or local agency aggrieved by the action of a State or local agency as it affects participation.

STANDARDS FOR ADMINISTRATION

SEC. 1411. The Secretary shall establish standards for the proper, efficient, and effective administration of the program, including standards that will ensure sufficient State agency staff. If the Secretary determines that a State agency has failed without good cause to administer the program in a manner consistent with this title or to implement the approved plan of operation and administration submitted under this title, the Secretary may withhold such amounts of the State agency's administrative funds as the Secretary deems appropriate. Upon correction of such failure during a fiscal year by a State agency, any funds so withheld for such fiscal year shall be provided the State agency.

SUPPLEMENTAL FOODS

SEC. 1412. (a) The Secretary shall prescribe by regulation the supplemental foods to be made available in the program under this title. To the degree possible, the Secretary shall assure that the fat, sugar, and salt content of the prescribed foods is appropriate. Products specifically designed for pregnant, postpartum, and breastfeeding women, or infants shall be available at the discretion of the Secretary if the products are commercially available or are justified to and approved by the Secretary based on clinical tests performed in accordance with standards prescribed by the Secretary.

(b) State agencies may, with the approval of the Secretary, substitute different foods providing the nutritional equivalent of foods prescribed by the Secretary, to allow for different cultural eating patterns.

(c) A competent professional authority shall be responsible for prescribing the appropriate supplemental foods, taking into account medical and nutritional conditions and cultural eating patterns.

STATE AND LOCAL ADMINISTRATIVE COSTS

SEC. 1413. (a) The Secretary shall make 20 per centum of the funds provided for the purposes of this title each fiscal year (other than funds expended for evaluation and pilot projects under section 1415 of this title) available for State agency and local agency administrative costs. When reallocating funds, the Secretary may exceed the 20 percent limitation for administrative costs if the Secretary determines such action necessary for the proper, efficient, and effective administration of the program. Not less than one-sixth of the funds expended by each State agency for administrative costs under this section shall be used for nutrition education activities, unless the State agency requests that it be authorized to expend a lesser amount and such request is accompanied by documentation that other funds will be used to conduct such activities.

(b) The Secretary, for each of the fiscal years 1979 through 1982, shall allocate administrative funds to each State agency on the basis of a formula determined by the Secretary, which shall include a minimum amount, and which shall be designed to take into account the varying needs of State agencies based on factors such as the number of local agencies and the number of persons participating in the program at those agencies.

(c) Each State agency shall provide, from its allocation for administrative funds, funds to local agencies for their administrative costs. Each State agency shall distribute administrative funds to local agencies under allocation standards developed by the State agency in cooperation with the several local agencies, which satisfy allocation guidelines established by the Secretary. Such allocation standards shall take into account factors deemed appropriate to further proper, efficient, and effective administration of the program, such as local agency staffing needs, density of population, number of persons served, and availability of administrative support from other sources. These allocation standards shall be included in the plan of operation and administration required by section 1405 of this title.

(d) The State agency shall forward in advance to local agencies those administrative funds necessary for successful commencement of program operations under this title during the three months following approval or until a program reaches its projected caseload level, whichever comes first.

REPORTS

SEC. 1414. State agencies shall submit monthly financial reports and participation data to the Secretary.

EVALUATION AND PILOT PROJECTS

SEC. 1415. Of the sums appropriated for any fiscal year for the program under this title, one-half of 1 per centum, not to exceed $3,000,000, shall be available to the Secretary for the purpose of evaluating program performance, evaluating health benefits, and administration of pilot projects, including projects designed to meet the special needs of migrants, Indians, and rural populations.

TITLE XV—FOOD DONATIONS

PURCHASE AND DONATION AUTHORITIES

SEC. 1501. (a) Funds provided by appropriation or transfer from other accounts for any fiscal year for carrying out the provisions of this Act, other than title VI hereof, shall be available to the Secretary during such year for direct expenditure by him for agricultural commodities and other foods to be distributed among the States and schools and service institutions participating in the food service programs under title III, IV, VI, VIII, and IX of this Act, in accordance with the needs as determined by the local school and service institution authorities. The provisions of law contained in the proviso of the Act of June 28, 1937 (50 Stat. 323), facilitating operations with respect to the purchase and disposition of surplus agricultural commodities under section 32 of the Act approved August 24, 1935 (49 Stat. 774), as amended, shall, to the extent not inconsistent with the provisions of this Act, also be applicable to expenditures of funds by the Secretary under this section. In making purchases of such agricultural commodities and other foods, the Secretary shall not issue specifications which restrict participation of local producers unless such specifications will result in significant advantages to the food service programs authorized by this Act.

(b) Notwithstanding any other provision of law, the Secretary, during the period ending September 30, 1982, shall—

(1) use funds available to carry out the provisions of section 32 of the Act of August 24, 1935 (7 U.S.C. 612c) which are not expended or needed to carry out such provisions, to purchase (without regard to the provisions of existing law governing the expenditure of public funds) foods of the types customarily purchased under such section (which may include domestic seafood commodities and their products) for donation to maintain the annually programed level of assistance for programs carried on under this Act; and

(2) if stocks of the Commodity Credit Corporation are not available, use the funds of such Corporation to purchase foods of the types customarily available under section 416 of the Agricultural Act of 1949 (7 U.S.C. 1431), for such donation.

(c) Foods purchased under the authority of section 32 of the Act of August 24, 1935 (49 Stat. 774), as amended, may be donated by the Secretary to schools, in accordance with the needs as determined by local school authorities, for utilization in the school lunch program under title III of this Act as well as to other schools carrying out nonprofit school lunch programs and institutions authorized to receive such foods.

(d) Foods available under section 416 of the Agricultural Act of 1949 (63 Stat. 1058), as amended, or purchased under section 32 of the Act of August 24, 1935 (49 Stat. 774), as amended, or section 709 of the Food and Agriculture Act of 1965 (79 Stat. 1212), may be donated by the Secretary to schools, in accordance with the needs as determined by local school authorities, for utilization in the school breakfast program under title IV of this Act.

(e) The Secretary is authorized to donate to States, for distribution to service institutions participating in the summer food service program for children under title VIII of this Act, foods available under section 416 of the Agricultural Act of 1949 (7 U.S.C. 1431), or purchased under section 32 of the Act of August 24, 1935 (7 U.S.C. 612c) or section 709 of the Food and Agriculture Act of 1965 (7 U.S.C. 1446a–1). Donated foods may be distributed only to service institutions that can use commodities efficiently and effectively, as determined by the Secretary.

(f) The Secretary shall donate foods produced in the United States for use in institutions participating in the child care food program under title IX of this Act.

(g) Foods available under section 416 of the Agriculture Act of 1949, including, but not limited to, dry milk, or purchased under section 32 of the Act of August 24, 1935, may be donated by the Secretary, at the request of a State agency, for distribution to programs conducted under the special supplemental food program under title XIV of this Act. The Secretary may purchase and distribute, at the request of a State agency, supplemental foods for donation to such programs, with appropriated funds, including funds appropriated for the purposes of title XIV.

(h) Among the products to be included in the food donations to the school lunch program shall be cereal and shortening and oil products.

(i) Among those foods delivered under subsection (a) of this section, the Secretary shall give special emphasis to high protein foods, meat and meat alternates (which may include domestic seafood commodities and their products).

PROCEDURES

SEC. 1502. (a) In providing food assistance under this Act for school lunch and breakfast programs, the Secretary shall establish procedures which will—

(1) ensure that the views of local school districts and private nonprofit schools with respect to the type of food assistance needed in schools are fully and accurately reflected in reports to the Secretary by the State with respect to State food preferences and that such views are considered by the Secretary in the purchase and distribution of foods and by the States in the allocation of such foods among schools within the States;

(2) solicit the views of States with respect to the acceptability of foods;

(3) ensure that the timing of food deliveries to States is consistent with State

school year calendars and that deliveries occur with sufficient advance notice;

(4) provide for systematic review of the costs and benefits of providing foods of the kind and quantity that are suitable to the needs of local school districts and private nonprofit schools; and

(5) make available, technical assistance on the use of foods made available under this Act.

(b) In purchasing foods for programs carried out under this Act, the Secretary shall establish procedures to ensure that contracts for the purchase of such foods shall not be entered into unless the previous history and current patterns of the contracting party with respect to compliance with applicable meat inspection laws and with other appropriate standards relating to the wholesomeness of food for human consumption are taken into account.

LEVEL OF FOOD ASSISTANCE

SEC. 1503. (a) For each fiscal year, the national average value of donated foods for the school lunch program, or cash payments in lieu thereof, shall not be less than 10 cents per lunch, and that amount shall be adjusted on an annual basis each school year after June 30, 1975, to reflect changes in the Price Index for Food Used in Schools and Institutions. The Index shall be computed using five major food components in the Bureau of Labor Statistics' Producer Price Index (cereal and bakery products, meats, poultry and fish, dairy products, processed fruits and vegetables, and fats and oils). Each component shall be weighted using the same relative weight as determined by the Bureau of Labor Statistics. The value of food assistance for each lunch shall be adjusted each July 1 by the annual percentage change in a three-month simple average value of the Price Index for Foods Used in Schools and Institutions for March, April, and May each year. Such adjustment shall be computed to the nearest one-fourth cent.

(b) The value of foods (or cash in lieu of foods) donated to each State for each school year, for use in institutions participating in the child care food program under title IX of this Act, shall be, at a minimum, the amount obtained by multiplying the number of lunches and suppers served in participating institutions in the State during that school year by the rate for donated foods or cash in lieu thereof established for lunches for that school year under subsection (a) of this section.

CASH IN LIEU OF FOOD ASSISTANCE

SEC. 1504. (a) Not later than May 15 of each school year, the Secretary shall make an estimate of the value of foods that will be delivered that school year to States for the school lunch program. If such estimated value is less than the total level of assistance authorized under subsection 1503(a), the Secretary shall pay to each State educational agency, not later than June 15 of that school year, an amount of funds that is equal to the difference between the value of such deliveries as then programed for such State and the total level of assistance authorized under subsection 1503(a). In any State in which the Secretary directly administers the school lunch program in any of the schools of the State, the Secretary shall withhold from the funds to be paid to such State under the provisions of this subsection an amount that bears the same ratio to the total of such payment as the number of lunches served in schools in which the school lunch program is directly administered by the Secretary during that school year bears to the total of such lunches served under the school lunch program in all the schools in such State in such school year. Each State educational agency, and the Secretary in the case of private schools in which the Secretary directly administers the school lunch program, shall promptly and equitably disburse such funds to schools participating in the school lunch program, and such disbursements shall be used by such schools to purchase United States agricultural foods for their food service program. Such foods shall be limited to the requirements for lunches and breakfasts for children as provided for in regulations issued by the Secretary.

(b) Notwithstanding any other provision of law, the Secretary, until such time as a supplemental appropriation may provide additional funds for the purpose of subsection (a) of this section, shall use funds appropriated by section 32 of the Act of August 24, 1935 (7 U.S.C. 612c) to make any payments to States authorized under this section. Any section 32 funds utilized to make such payments shall be reimbursed out of any supplemental appropriation hereafter enacted for the purpose of carrying out subsection (a) of this section and such reimbursement shall be deposited into the fund established pursuant to section 32 of the Act of August 24, 1935, to be available for the purposes of said section 32.

(c) Funds made available under subsections (a) or (b) of this section shall not be subject to the State matching provisions of section 305 of title III of this Act.

(d) Notwithstanding any other provision of this title, not less than 75 per centum of the food assistance provided under this Act for school lunch programs shall be in the form of donated foods.

(e) Any State receiving food assistance under this title for institutions participating in the child care food program may, upon application to the Secretary, receive cash in lieu of some or all of the foods to which it would otherwise be entitled. In determining whether to request cash in lieu of foods, the State shall base its decision on the preferences of individual participating institutions within the State, unless this proves impracticable due to the small number of institutions preferring donated foods.

(f)(1) Notwithstanding any other provision of law, where a State phases out its commodity distribution facilities prior to June 30, 1974, such State may, for purposes of the programs authorized by this Act, elect to receive cash payments in lieu of donated foods. Where such an election is made, the Secretary shall make cash payments to such State in an amount equivalent in value to the donated foods that the State would otherwise have received if it had retained its commodity distribution facilities. The amount of cash payments in the case of lunches shall be governed by subsection 1503(a) of this title.

(2) When such payments are made, the State educational agency shall promptly and equitably disburse any cash it receives in lieu of foods to eligible schools and institutions, and such disbursements shall be used by such schools and institutions to purchase United States agricultural foods for their food service programs.

FOODS FOR THE ELDERLY

SEC. 1505. (a) The Secretary may use funds appropriated from the general fund of the Treasury to purchase agricultural foods of the types customarily purchased for donation under section 311 of the Comprehensive Older Americans Act Amendments of 1978 (42 U.S.C. 3030a) or for cash payments in lieu of such donations under section 311(c) of such Act (42 U.S.C. 3030(c)).

(b) The authority granted the Secretary in subsection 1501(b) of this title shall also be available to the Secretary for the purchase of foods to maintain the annually programed level of assistance for programs carried on under title VII of the Older Americans Act of 1965 (42 U.S.C. 3045f).

TITLE XVI—NUTRITION EDUCATION AND TRAINING

FINDINGS AND PURPOSE

SEC. 1601. (a) Congress finds that—

(1) the proper nutrition of the Nation's children is a matter of highest priority;

(2) the lack of understanding of the principles of good nutrition and their relationship to health can contribute to a child's rejection of highly nutritious foods and consequent plate waste in school food service operations;

(3) many school food service personnel have not had adequate training in food service management skills and principles, and many teachers and school food service operators have not had adequate training in the fundamentals of nutrition on how to convey this information so as to motivate children to practice sound eating habits;

(4) parents exert a significant influence on children in the development of nutritional habits and lack of nutritional knowledge on the part of parents can have detrimental effects on children's nutritional development; and

(5) there is a need to create opportunities for children to learn about the importance of the principles of good nutrition in their daily lives and how these principles are applied in the school cafeteria.

(b) It is the purpose of this title to encourage effective dissemination of scientifically valid information to children participating or eligible to participate in the school lunch and related child nutrition programs by establishing a system of grants to State educational agencies for the development of comprehensive nutrition information and education programs. Such nutrition education programs shall fully use as a learning laboratory the school lunch and child nutrition programs.

DEFINITION

SEC. 1602. For purposes of this title, the term "nutrition information and education program" means a multidisciplinary program by which scientifically valid information about foods and nutrients is imparted in a manner that individuals receiving such information will understand the principles of nutrition and seek to maximize their well-being through food consumption practices. Nutrition education programs shall include, but not be limited to, (a) instructing students with regard to the nutritional value of foods and the relationship between food and human health; (b) training school food service personnel in the principles and practices of food service management; (c) instructing teachers in sound principles of nutrition education; and (d) developing and using classroom materials and curricula.

PROGRAM AUTHORIZATION

SEC. 1603. (a) The Secretary is authorized to formulate and carry out a nutrition information and education program, through a system of grants to State educational agencies, to provide for (1) the nutritional training of educational and food service personnel, (2) the food service management training of school food service personnel, and (3) the conduct of nutrition education activities in schools and child care institutions.

(b) The program is to be coordinated at the State level with other nutrition activities conducted by education, health, and State Cooperative Extension Service agencies. In formulating the program, the Secretary and the State may solicit the advice and recommendations of the National Advisory Council on Child Nutrition; State educational agencies; the Department of Health, Education, and Welfare; and other interested groups and individuals concerned with improvement of child nutrition.

(c) If a State educational agency is conducting or applying to conduct a health ed-

ucation program which includes a school-related nutrition education component as defined by the Secretary, and that health education program is eligible for funds under programs administered by the Department of Health, Education, and Welfare, the Secretary may make funds authorized for this title available to the Department of Health, Education, and Welfare to fund the nutrition education component of the State program without requiring an additional grant application.

AGREEMENTS WITH STATE AGENCIES

SEC. 1604. The Secretary is authorized to enter into agreements with State educational agencies incorporating the provisions of this title.

GRANTS TO STATES

SEC. 1605. (a) The Secretary, in carrying out the provisions of this title, shall make grants to State educational agencies who, in turn, may contract with land grant colleges eligible to receive funds under the Act of July 2, 1862 (12 Stat. 503, as amended; 7 U.S.C. 301–305, 307, and 308), or the Act of August 30, 1890 (26 Stat. 417, as amended; 7 U.S.C. 321–326 and 328) including the Tuskegee Institute, other institutions of higher education, and nonprofit organizations and agencies, for the training of educational and school food service personnel with respect to providing nutrition education programs in schools and the training of school food service personnel in school food service management. Such grants may be used to develop and conduct training programs for early childhood, elementary, and secondary educational personnel and food service personnel with respect to the relationship between food, nutrition, and health; educational methods and techniques, and issues relating to nutrition education; and principles and skills of food service management for cafeteria personnel.

(b) Grants to each State from funds appropriated for the purposes of this title shall be based on a rate of 50 cents for each child enrolled in schools or in institutions within such State, except that no State shall receive an amount less than $75,000 for that year. If funds appropriated for such year are insufficient to pay the amount to which each State is entitled under the preceding sentence, the amount of such grant shall be ratably reduced to the extent necessary so that the total of such amounts paid does not exceed the amount of appropriated funds. If additional funds become available for making such payments, such amounts shall be increased on the same basis as they were reduced.

(c) Enrollment data used for purposes of this section shall be the latest available as certified by the Office of Education of the Department of Health, Education, and Welfare.

STATE CONTRACTS

SEC. 1606. The State, in carrying out the provisions of this title, may contract with State and local educational agencies, land grant colleges eligible to receive funds under the Act of July 2, 1862 (12 Stat. 503, as amended; 7 U.S.C. 301–305, 307, and 308), or the Act of August 30, 1890 (26 Stat. 417, as amended; 7 U.S.C. 321–326 and 328), including the Tuskegee Institute, other institutions of higher education, and other public or private nonprofit educational or research agencies, institutions, or organizations to pay the cost of pilot demonstration projects in elementary and secondary schools with respect to nutrition education. Such projects may include, but are not limited to, projects for the development, demonstration, testing, and evaluation of curricula for use in early childhood, elementary, and secondary education programs.

USE OF FUNDS

SEC. 1607. (a) The funds made available under this title may, under guidelines established by the Secretary, be used by State educational agencies for (1) employing a nutrition education specialist to coordinate the program, including travel and related personnel costs; (2) undertaking an assessment of the nutrition education needs of the State; (3) developing a State plan of operation and management for nutrition education; (4) applying for and carrying out planning and assessment grants; (5) pilot projects and related purposes; (6) the planning, development, and conduct of nutrition education programs and workshops for food service and educational personnel; (7) coordinating and promoting nutrition information and education activities in local school districts (incorporating, to the maximum extent practicable, as a learning laboratory, the child nutrition programs); (8) contracting with public and private nonprofit educational institutions for the conduct of nutrition education instruction and programs relating to the purposes of this title; and (9) related nutrition education purposes, including the preparation, testing, distribution, and evaluation of visual aids and other informational and educational materials.

(b) An amount not to exceed 15 per centum of each State's grant may be used for up to 50 per centum of the expenditures for overall administrative and supervisory purposes in connection with the program authorized under this title.

(c) Nothing in this title shall prohibit State or local educational agencies from making available or distributing to adults nutrition education materials, resources, activities, or programs authorized under this title.

PLANNING AND ASSESSMENT GRANT

SEC. 1608. Any State desiring to receive grants authorized by this title may, from the funds appropriated to carry out this title, receive a planning and assessment grant for the purposes of carrying out the responsibilities described in clauses (1), (2), (3), and (4) of subsection 1607(a) of this title. Any State receiving a planning and assessment grant, may, during the first year of participation, be advanced a portion of the funds necessary to carry out such responsibilities: *Provided*, That in order to receive additional funding, the State must carry out such responsibilities.

STATE COORDINATORS FOR NUTRITION

SEC. 1609. (a) In order to be eligible for assistance under this section, a State shall appoint a nutrition education specialist to serve as a State coordinator for school nutrition education. It shall be the responsibility of the State coordinator to make an assessment of the nutrition education needs in the State as provided in subsection (b) of this section, prepare a State plan as provided in section 1610 of this title, and coordinate programs under this title with all other nutrition education programs provided by the State with Federal or State funds.

(b) Upon receipt of funds authorized by this title, the State coordinator shall prepare an itemized budget and assess the nutrition education needs of the State. Such assessment shall include, but not be limited to, the identification and location of all students in need of nutrition education. The assessment shall also identify State and local individual, group, and institutional resources within the State for materials, facilities, staffs, and methods related to nutrition education.

STATE PLAN

SEC. 1610. Within nine months after the award of the planning and assessment grant, the State coordinator shall develop, prepare, and furnish the Secretary, for approval, a comprehensive plan for nutrition education within the State. The Secretary shall act on such plan not later than sixty days after it is received. Each such plan shall describe (a) the findings of the nutrition education needs assessment within the State; (b) provisions for coordinating the nutrition education program carried out with funds made available under this title with any related publicly supported programs being carried out within the State; (c) plans for soliciting the advice and recommendations of the National Advisory Council on Child Nutrition, the State educational agency, interested teachers, food nutrition professionals and paraprofessionals, school food service personnel, administrators, representatives from consumer groups, parents, and other individuals concerned with the improvement of child nutrition; (d) plans for reaching all students in the State with instruction in the nutritional value of foods and the relationships among food, nutrition, and health, for training food service personnel in the principles and skills of food service management, and for instructing teachers in sound principles of nutrition education; and (e) plans for using, on a priority basis, the resources of the landgrant colleges eligible to receive funds under the Act of July 2, 1862 (12 Stat. 503; 7 U.S.C. 301–305, 307, and 308), or the Act of August 30, 1890 (26 Stat. 417, as amended; 7 U.S.C. 321–326 and 328), including the Tuskegee Institute. To the maximum extent practicable, the State's performance under such plan shall be reviewed and evaluated by the Secretary on a regular basis, including the use of public hearings.

REPORTS

SEC. 1611. State educational agencies shall provide reports on expenditures of Federal funds, program participation, program costs, and related matters, in such form and at such times as the Secretary may prescribe.

TITLE XVI—ADDITIONAL EDUCATION AND TRAINING AUTHORIZATIONS—SURVEYS, PROJECTS

GENERAL

SEC. 1701. Not to exceed 1 per centum of the funds provided for carrying out the programs under this Act, other than the special milk program under title VI, is hereby made available to the Secretary to supplement the nutritional benefits of these programs through grants to States and other means for nutritional training and education for workers, cooperators, and participants in these programs, for pilot projects required to be carried out under section 313 of title III of this Act, and for necessary surveys and studies of requirements for food service programs in furtherance of the purposes expressed in this Act.

GRANTS TO STATES

SEC. 1702. (a) The Secretary is hereby authorized and directed to make cash grants to State educational agencies for the purpose of conducting experimental or demonstration projects to teach schoolchildren the nutritional value of foods and the relationship of nutrition to human health.

(b) The Secretary shall withhold not less than 1 per centum of any funds appropriated for the purpose of this section and shall expend these funds to carry out research and development projects relevant to the purpose of this section, particularly to develop materials and techniques for the innovative presentation of nutritional information.

SPECIAL DEVELOPMENTAL PROJECTS

SEC. 1703. In the regulations issued under section 2101 of title XXI of this Act, the Secretary may provide for a reserve of up to 1 per centum of the funds available to any State to carry out special developmental projects.

TITLE XVIII—ACCOUNTS AND RECORDS

GENERAL PROVISIONS

SEC. 1801. (a) States, State educational agencies, local agencies, service and nonprofit institutions, and schools participating in the school lunch, school breakfast, special milk, food service equipment assistance, summer food service, child care food, State administrative expenses, special supplemental food and nutrition, education and training programs under titles III, IV, VI, VII, IX, XIII, XIV, and XVI of this Act shall keep such accounts and records, including medical records, as may be necessary to enable the Secretary to determine whether there has been compliance with the provisions of such titles and the regulations thereunder, respectively. Such accounts and records shall at all times be available for inspection and audit by representatives of the Secretary and shall be preserved for such period of time, not in excess of five years for the school lunch, summer food service, child care food, special supplemental food and nutrition and training programs or three years for the school breakfast, special milk, food service equipment assistance and State administrative expenses programs, as the Secretary determines is necessary.

(b) Accounts and records for the child care food program under title IX of this Act shall also be available at all times for inspection and audit by the Comptroller General of the United States and appropriate State representatives.

TITLE XIX—CRIMINAL PROVISIONS

GENERAL

SEC. 1901. Whoever embezzles, willfully misapplies, steals, or obtains by fraud any funds, assets, or property that are the subject of a grant or other form of assistance under this Act, whether received directly or indirectly from the United States Department of Agriculture, or whoever receives, conceals, or retains such funds, assets, or property to his use or gain, knowing such funds, assets, or property have been embezzled, willfully misapplied, stolen, or obtained by fraud shall, if such funds, assets, or property are of the value of $100 or more, be fined not more than $10,000 or imprisoned not more than five years, or both, or, if such funds, assets, or property are of a value of less than $100, shall be fined not more than $1,000 or imprisoned for not more than one year, or both.

SUMMER FOOD SERVICE PROGRAM

SEC. 1902. (a) Whoever, in connection with any application, procurement, recordkeeping entry, claim for reimbursement, or other document or statement made in connection with the summer food service program for children under title VIII of this Act, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes or uses any false writing or document knowing the same to contain any false, fictitious, or fraudulent statement or entry, or whoever, in connection with such program, knowingly makes an opportunity for any person to defraud the United States, or does or omits to do any act with intent to enable any person to defraud the United States, shall be fined not more than $10,000 or imprisoned not more than five years, or both.

(b) Whoever being a partner, officer, director, or managing agent connected in any capacity with any partnership, association, corporation, business, or organization, either public or private, that receives benefits under the summer food service program for children, knowingly or willfully embezzles, misapplies, steals, or obtains by fraud, false statement, or forgery, any benefits provided by such program or any money, funds, assets, or property derived from benefits provided by such program, shall be fined not more than $10,000 or imprisoned for not more than five years, or both (but, if the benefits, money, funds, assets, or property involved is not over $200, then the penalty shall be a fine of not more than $1,000 or imprisonment for not more than one year, or both).

(c) If two or more persons conspire or collude to accomplish any act made unlawful under this section, and one or more of such persons do any act to effect the object of the conspiracy or collusion, each shall be fined not more than $10,000 or imprisoned for not more than five years, or both.

TITLE XX—ADVISORY COUNCILS

ADVISORY COUNCIL ON CHILD NUTRITION

SEC. 2001. (a) There is hereby established a council to be known as the National Advisory Council on Child Nutrition (hereinafter in this section referred to as the "Council") which shall be composed of nineteen members appointed by the Secretary. One member shall be a school administrator, one member shall be a person engaged in child welfare work, one member shall be a person engaged in vocational education work, one member shall be a nutrition expert, one member shall be a school food service management expert, one member shall be a State superintendent of schools (or the equivalent thereof), one member shall be a supervisor of a school lunch program in a school system in an urban area (or the equivalent thereof), one member shall be a supervisor of a school lunch program in a school system in a rural area, one member shall be a State school lunch director (or the equivalent thereof), one member shall be a person serving on a school board, one member shall be a classroom teacher, two members shall be parents of children in schools that participate in the school lunch program under this Act, two members shall be senior high school students who participate in the school lunch program under this Act, and four members shall be officers or employees of the Department of Agriculture specially qualified to serve on the Council because of their education, training, experience, and knowledge in matters relating to child food programs.

(b) The fifteen members of the Council appointed from outside the Department of Agriculture shall be appointed for terms of two years, except that the appointments for 1978 shall be made as follows: Two replacements, one parent, and one senior high school student shall be appointed for terms of two years; and two replacements, one parent, and one senior high school student shall be appointed for terms of one year. Thereafter, all appointments shall be for a term of two years, except that a person appointed to fill an unexpired term shall serve only for the remainder of such term. Parents and senior high school students appointed to the Council shall be members of State or school district child nutrition councils or committees actively engaged in providing program advice and guidance to school officials administering the school lunch program. Such appointments shall be made in a manner to balance rural and urban representation between parents and students. Members appointed from the Department of Agriculture shall serve at the pleasure of the Secretary.

(c) The Secretary shall designate one of the members to serve as Chairman and one to serve as Vice Chairman of the Council.

(d) The Council shall meet at the call of the Chairman but shall meet at least once a year.

(e) Eight members shall constitute a quorum and a vacancy on the Council shall not affect its powers.

(f) It shall be the function of the Council to make a continuing study of the operation of programs carried out under this Act and any related Act under which meals are provided for children, with a view to determining how such programs may be improved. The Council shall submit to the President and the Congress annually a written report of the results of its study together with such recommendations for the administrative and legislative changes as it deems appropriate.

(g) The Secretary shall provide the Council with such technical and other assistance, including secretarial and clerical assistance, as may be required to carry out its functions under this Act.

(h) Members of the Council shall serve without compensation but shall receive reimbursement for necessary travel and subsistence expenses incurred by them in the performance of the duties of the Council: *Provided*, That members serving as parents, in addition to reimbursement for necessary travel and subsistence, shall, at the discretion of the Secretary, be compensated for other personal expenses related to participation on the Council, such as child care expenses and lost wages during scheduled Council meetings.

ADVISORY COUNCIL ON MATERNAL, INFANT, AND FETAL NUTRITION

SEC. 2002. (a) There is hereby established a National Advisory Council on Maternal, Infant, and Fetal Nutrition (referred to in this subsection as the "Council") composed of twenty-one members appointed by the Secretary. One member shall be a State director of a program under title XIV of this Act; one member shall be a State official responsible for a commodity supplemental food program under section 1304 of the Food and Agriculture Act of 1977; one member shall be a State fiscal officer of a program under title XIV of this Act (or the equivalent thereof); one member shall be a State health officer (or the equivalent thereof); one member shall be a local agency director of a program under title XIV of this Act in an urban area; one member shall be a local agency director of a program under title XIV of this Act in a rural area; one member shall be a project director of a commodity supplemental food program; one member shall be a State public health nutrition director (or the equivalent thereof); one member shall be a representative of an organization serving migrants; one member shall be an official from a State agency predominantly serving Indians; three members shall be parent participants of a program under title XIV of this Act or of a commodity supplemental food program; one member shall be a pediatrician; one member shall be an obstetrician; one member shall be a representative of a nonprofit public interest organization that has experience with and knowledge of the special supplemental food program; one member shall be a person involved at the retail sales level of food in the special supplemental food program; two members shall be officials of the Department of Health, Education, and Welfare appointed by the Secretary of Health, Education, and Welfare; and two members shall be officials of the Department of Agriculture appointed by the Secretary.

(b) Members of the Council appointed from outside the Department of Agriculture and the Department of Health, Education, and Welfare shall be appointed for terms not exceeding three years. State and local officials shall serve only during their official tenure, and the tenure of parent participants shall not exceed two years. Persons appointed to complete an unexpired term shall serve only for the remainder of such term.

(c) The Secretary shall designate a Chairman and a Vice Chairman. The Council shall meet at the call of the Chairman, but shall meet at least once a year. Eleven members shall constitute a quorum.

(d) The Council shall make a continuing study of the operation of the special sup-

plemental food program under title XIV of this Act and related programs to determine how the program may be improved. The Council shall submit once every two years to the President and Congress, beginning with the fiscal year ending September 30, 1980, a written report, together with its recommendations on such program operations.

(e) The Secretary shall provide the Council with such technical and other assistance, including secretarial and clerical assistance, as may be required to carry out its functions.

(f) Members of the Council shall serve without compensation but shall be reimbursed for necessary travel and subsistence expenses incurred by them in the performance of the duties of the Council: *Provided*, That parent participant members of the Council, in addition to reimbursement for necessary travel and subsistence, shall, at the discretion of the Secretary, be compensated in advance for other personal expenses related to participation on the Council, such as child care expenses and lost wages during scheduled Council meetings.

TITLE XXI—REGULATIONS

SEC. 2101. The Secretary shall prescribe such regulations as he may deem necessary to carry out this Act, including regulations relating to the service of food in participating schools and service institutions in competition with the programs authorized under this Act. Such regulations shall not prohibit the sale of competitive foods approved by the Secretary in food service facilities or areas during the time of service of food under this Act if the proceeds from the sales of such foods will inure to the benefit of the schools or of organizations of students approved by the schools. In such regulations, the Secretary may provide for the transfer of funds by any State between the programs authorized under this Act on the basis of an approved State plan of operation for the use of the funds, except that the Secretary may not provide for the transfer of funds from the nutrition education and training program to any other program.

TITLE XXII—APPROPRIATIONS AUTHORIZED

SCHOOL LUNCH PROGRAM

SEC. 2201. For each fiscal year there is hereby authorized to be appropriated, out of money in the Treasury not otherwise appropriated, such sums as may be necessary to enable the Secretary to carry out the provisions of title III of this Act, title V of this Act insofar as it relates to the school lunch program, and section 2001 of title XX of this Act.

SCHOOL BREAKFAST PROGRAM

SEC. 2202. There is hereby authorized to be appropriated for each fiscal year such sums to enable the Secretary to carry out the provisions of title IV of this Act and title V of this Act insofar as it relates to the school breakfast program.

SPECIAL MILK PROGRAM

SEC. 2203. There is hereby authorized to be appropriated for each fiscal year such sums as may be necessary to enable the Secretary to carry out the program authorized under title VI of this Act.

SUMMER FOOD SERVICE PROGRAM

SEC. 2204. There are hereby authorized to be appropriated such sums as are necessary to carry out the purposes of title VIII of this Act.

CHILD CARE FOOD PROGRAM

SEC. 2205. There are hereby authorized to be appropriated for each fiscal year such funds as are necessary to carry out the purposes of title IX of this Act.

FOOD SERVICE EQUIPMENT ASSISTANCE FOR SCHOOLS

SEC. 2206. There is hereby authorized to be appropriated for each fiscal year not to exceed $75,000,000 to enable the Secretary to carry out the food sevice equipment assistance program for schools under title VII of this Act.

STATE ADMINISTRATIVE EXPENSES

SEC. 2207. (a) There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of title XIII of this Act.

(b) There are hereby authorized to be appropriated such sums as may be necessary for the purposes of title XIII of this Act.

SPECIAL SUPPLEMENTAL FOOD PROGRAM

SEC. 2208. There are hereby authorized to be appropriated $550,000,000 for the fiscal year ending September 30, 1979, $800,000,000 for the fiscal year ending September 30, 1980, $900,000,000 for the fiscal year ending September 30, 1981, and $950,000,000 for the fiscal year ending September 30, 1982, for the purpose of carrying out the program authorized by title XIV of this Act.

FOODS FOR THE ELDERLY

SEC. 2209. There are hereby authorized to be appropriated such sums as are necessary to carry out the purposes of section 1505 of title XV of this Act.

NUTRITION EDUCATION AND TRAINING

SEC. 2210. There is hereby authorized to be appropriated for grants to each State for the conduct of nutrition education and information programs under title XVI of this Act an amount equal to the higher of (a) 50 cents for each child enrolled in schools or in institutions within each State, or (b) $75,000 for each State.

EXPERIMENTAL OR DEMONSTRATION PROJECTS

SEC. 2211. In order to carry out the program provided for in section 1702 of title XVII of this Act, there is hereby authorized to be appropriated not to exceed $1,000,000 annually.

ADVANCE APPROPRIATIONS

SEC. 2212. Appropriations to carry out the provisions of this Act for any fiscal year are authorized to be made a year in advance of the beginning of the fiscal year in which the funds will become available for disbursement to the States.

CONTINUED AVAILABILITY OF FUNDS

SEC. 2213. Notwithstanding any other provision of law, any funds appropriated to carry out the provisions of this Act shall remain available for the purposes for which appropriated until expended.

SECRETARY'S ADMINISTRATIVE EXPENSES

SEC. 2214. (a) Not to exceed 3½ per centum of the funds appropriated for carrying out the provisions of this Act, other than title VI hereof, is hereby being made available to the Secretary for his administrative expenses under this Act.

(b) There is hereby authorized to be appropriated for any fiscal year such sums as may be necessary to the Secretary for his administrative expense under titles IV, V (insofar as it relates to the school breakfast program), VI, VII, XIII, XIV, XVI, section 1702 of title XVII and section 2002 of title XX of this Act.

TITLE XXIII—ADMINISTRATION AND BUDGET

CENTRALIZATION OF ADMINISTRATION

SEC. 2301. Authority for the conduct and supervision of Federal programs to assist schools in providing food service programs for children is assigned to the Department of Agriculture. To the extent practicable, other Federal agencies administering programs under which funds are to be provided to schools for such assistance shall transfer such funds to the Department of Agriculture for distribution through the administrative channels and in accordance with the standards established under this Act.

HEW BUDGET

SEC. 2302. Appropriations and expenditures for this Act shall be considered Health, Education, and Welfare functions for budget purposes rather than functions of Agriculture.

TITLE XXIV—TREASURY PAYMENTS

SCHOOL LUNCH PROGRAM

SEC. 2401. The Secretary shall certify to the Secretary of the Treasury from time to time the amounts to be paid to any State under section 302 of title III of this Act and the time or times such amounts are to be paid; and the Secretary of the Treasury shall pay to the State at the time or times fixed by the Secretary the amounts so certified.

OTHER PROGRAMS

SEC. 2402. The Secretary shall certify to the Secretary of the Treasury from time to time the amounts to be paid to any State under titles IV, VI, VII, and XIII of this Act and the time or times such amounts are to be paid; and the Secretary of the Treasury shall pay to the State at the time or times fixed by the Secretary the amounts so certified.

TITLE XXV—MISCELLANEOUS PROVISIONS

NATIONAL SCHOOL LUNCH ACT AND CHILD NUTRITION ACT OF 1966

SEC. 2501. The National School Lunch Act, as amended, and the Child Nutrition Act of 1966, as amended, are hereby repealed.

REGULATIONS

SEC. 2502. The provisions of the National School Lunch Act, as amended, and the Child Nutrition Act of 1966, as amended, which are relevant to current regulations of the Secretary governing all programs authorized under those Acts shall remain in effect until such regulations are revoked, suspended, amended, or modified by regulations issued pursuant to the National Child Nutrition Act.

U.S. SENATE,
COMMITTEE ON AGRICULTURE,
NUTRITION, AND FORESTRY,
Washington, D.C., May 11, 1979.

Mr. DANIEL MARCUS,
Acting General Counsel, USDA,
Washington, D.C.

DEAR MR. MARCUS: I very much appreciate the aid and assistance the General Counsel's office has provided the Committee over the years, particularly in the area of nutrition legislation.

If possible, I would again like to call upon the services of your office.

There has been interest in recent years in a comprehensive rewrite of the National School Lunch Act and the Child Nutrition Act of 1966. I would very much appreciate your office integrating the two statutes into one bill without any substantive changes. I recognize that this is a rather substantial undertaking, but believe that the Committee may want to use such a bill as the basis of its consideration of child nutrition legislation next year.

Completion of the draft bill by September 1979 would be most helpful.

With every good wish, I am

Sincerely,

GEORGE MCGOVERN,
Chairman, Subcommittee on Nutrition.

DEPARTMENT OF AGRICULTURE,
OFFICE OF THE GENERAL COUNSEL,
Washington, D.C., May 16, 1979.

Hon. GEORGE MCGOVERN,
Chairman, Subcommittee on Nutrition, U.S. Senate, Washington, D.C.

DEAR SENATOR MCGOVERN: In your letter of May 11, you asked if our office could provide assistance to the Senate Agriculture

Committee by drafting a bill that would integrate the provisions of the National School Lunch Act and the Child Nutrition Act of 1966 into a single statute without making any substantive changes.

We would be happy to assist you and your committee, and believe that we can produce such a draft bill, as you requested, by September of this year. If you or your staff have any questions as we proceed, please let us know.

Sincerely,

DANIEL MARCUS,
Acting General Counsel.

DEPARTMENT OF AGRICULTURE,
OFFICE OF THE GENERAL COUNSEL,
Washington, D.C., October 2, 1979.

Hon. GEORGE MCGOVERN,
Chairman, Subcommittee on Nutrition, U.S. Senate, Washington, D.C.

DEAR SENATOR MCGOVERN: We are pleased to forward to you the draft legislation prepared by our office which integrates the provisions of the National School Lunch Act and the Child Nutrition Act of 1966.

After meeting with Mr. Matz, Special Counsel, Senate Agriculture Committee, we have redrafted the legislation to incorporate the alterations requested by Mr. Matz. Attached to this letter is a list of the two technical amendments which are necessitated by the resolution of certain inconsistent provisions of the National School Lunch Act and Child Nutrition Act.

If you or your staff have any questions concerning this legislation, please contact Bonnie Luken of this office at 447-4396.

Sincerely,

DANIEL MARCUS,
General Counsel.

EXPLANATORY NOTES*

1. Section 201(g).—The definition in section 8 of the National School Lunch Act purports to cover the terms "child" and "children" wherever used in that Act. However, the definition cannot be reconciled with the express definition in section 13(a)(1) of the National School Lunch Act (title VIII of this "Act").

2. Section 301.—Cf. matching requirements which are based upon a school year.

3. Section 302 and Section 403(a).—This "grandfather" provision is not currently effective but could be triggered by a downward adjustment in the CPI.

4. Section 305.—Essentially the same provision, but stated in the negative, has been omitted. See the last sentence in section 13(i) which provides that any State unable to disburse funds payable to it under the section shall notify the Secretary by January 1 of its intention not to administer the program.

5. Section 803.—The present act uses the word "may." Since later program provisions are mandatory, "shall" has been substituted.

6. Section 901 and Section 1403(a).—This provision of the National School Lunch Act refers to school lunch and school breakfast programs and also to programs under "section 13 of this Act." When the provision was enacted (P.L. 91-248, 84 Stat. 212, May 14, 1970), section 13 encompassed both the summer food service program for children (currently section 13 of the National School Lunch Act) and the child care food program (currently section 17 of the National School Lunch Act). Although the reference to section 13 was not changed, it is clear from section 17(i), enacted by P.L. 95-627, 92 Stat. 3609, Nov. 10, 1978, that the requirements of section 11(e) of the National School Lunch Act apply also to the child care food program.

7. Section 1001.—When this provision was enacted, the term "service institution" encompassed both "service institution" and "institution," as presently defined in sections 13 and 17 of the National School Lunch Act.

8. Section 1501(a) and Section 2101.—This reference to "institutions" preceded the use of the term in the child care food program. It referred to charitable institutions authorized to receive section 32 commodities for the use of needy persons. See the food donation regulations, 7 CFR Part 250.

9. Section 1501(c).—Section 416 of the Agricultural Act of 1949 and section 709 of the Food and Agriculture Act of 1965 authorize the Secretary to donate commodities acquired under those sections to school lunch programs.

10. Section 1501(d).—The term "institution" here encompasses "institution" as defined in the child care food program, "service institution" as defined in the summer food service program for children, "local agency" as defined in the special supplemental food program, and food programs for the elderly.

11. Section 1504(f)(2).—This has been adapted from section 16 of the Child Nutrition Act of 1966. Read literally, the section would apply also to States operating under the special supplemental food program which has a separate records provision.

12. Section 1801.—Section 19(e) of the Child Nutrition Act authorizes the Secretary to issue such regulations as are necessary to implement the nutrition education and training programs, a provision which appears redundant in view of the language of section 10 of the Child Nutrition Act. However, there may be some question as to whether the last sentence of section 10, CNA, is applicable to the nutrition education and training program. Because section 19(e) of CNA provides for the NET regulations, section 10, CNA, is probably not applicable to NET.

13. Section 2101.—Subsection (a) of this section was added by section 7 of P.L. 95-627, 92 Stat. 3621, November 10, 1978. Subsection (b) of this section was a part of section 7 of the Child Nutrition Act of 1966 since its amendment by P.L. 95-166, 91 Stat. 1338, November 10, 1977.

14. Section 2207(a).—This provision is currently in section 4 of the Child Nutrition Act of 1966, applicable to the school breakfast program. A similar provision, applicable to the national school lunch program, was enacted as independent legislation (Public Law 90-302, May 8, 1968, 82 Stat. 117).

TECHNICAL AMENDMENTS

1. Title IX, section 901 of this Act substitutes the word "shall" for the word "may" used in section 17(a) of the National School Lunch Act. The word "shall" has been substituted because the Secretary has no discretion to refuse to carry out the program.

2. Section 19(e) of the Child Nutrition Act of 1966 authorizes the Secretary to issue such regulations as are necessary to implement the nutrition education and training program (NET). Section 10 of the Child Nutrition Act authorizes the Secretary to issue such regulations as are necessary to implement the Child Nutrition Act and the National School Lunch Act. Since § 19(e), CNA, provides for the issuance of the NET regulations it is redundant for § 10, CNA, to provide for the same issuance of the NET regulations. Further, the NET program is carried out by grants from the Secretary to State educational agencies. All other NSLA and CNA programs are carried out by reimbursements from the Secretary to the State educational agencies for the number of meals served. It would be difficult to transfer NET funds to other programs. Therefore, § 10, CNA, is amended to provide that funds may be transferred from one program to another within a state at the Secretary's discretion, except that funds cannot be transferred from the NET program.

TABLE 1.—*Cross reference*

Old legislation	New legislation
I NSLA [1]	
2	101
3	2201, 2212, 2213
4	301, 302
5	Omitted
6	312(b)
6(a)	1501(a), 1701, 2214(a)
6(b)	1504(a)
6(c)	1504(b)
6(d)	1504(c)
6(e)	1501(i), 1503(a), 1504(d)
7	301, 305, 306, 2401
8	201(g), 307(a), (b), (d)
9(a)	310, 311(a), (b)
9(b)	308, 309(a), (b), (d), (e)
9(c)	309(c), (h), 312(a), 1101, 1501(c)
10	1201
11(a)	304(a), 404(a)
11(b)	307(c)
11(c)	Omitted
11(d)	Omitted
11(e)	309(f), (g), 1001
12(a)	1801(a)
12(b)	Omitted
12(c)	201, 1103, 1105
12(d)	201(a-f)
12(e)	1105
12(f)	304(b), 404(b)
12(g)	1901
12(h)	1106
13(a)	201, 801, 802
13(a)(2)	812
13(a)(3)	804
13(a)(5)	808
13(b)	805
13(b)(2)	811(b)
13(c)	811(c)
13(d)	806
13(e)	807
13(f)	810, 811, 813
13(g)	809, 816
13(h)	811, 1501(e)
13(i)	1204
13(j)	1104
13(k)	814
13(l)	815
13(m)	1801(a)
13(n)	1003
13(o)	1902
13(p)	2204
14(a)	1501(b), 1505(b)
14(b)	1501(h)
14(c)	1505(a), 2209
14(d)	1502(a)
14(e)	1107
15	2001
16	1504(f)
17(a)	901, 902, 903
17(b)	905(a)
17(c)	905(b)
17(d)	904, 1407(a-c)
17(e)	909
17(f)	906
17(f)(4)	907
17(f)(5)	908, 1801
17(f)(6)	1406
17(g)	911
17(h)	1501(f), 1504(e)
17(i)	1004
17(j)	913
17(k)	910
17(l)	915, 1501(g)
17(m)	1205
17(n)	912
17(o)	914
17(p)	1104
17(q)	1801(b)
17(r)	2205
18	Omitted
19	Omitted
20(d)	313
21	Omitted
22	101, 311(c), 501

[1] National School Lunch Act, Public Law 79-396, 60 Stat. 230, June 4, 1946.

*Prepared by the Department of Agriculture, Office of General Counsel.

New legislation	Old legislation
II CNA [2]	
2	101
3	601, 602, 603, 2203
4(a)	402, 2202, 2302
4(b)	402, 403, 405(a–c)
4(c)	406
4(d)	405(d), 1002
4(e)	407, 408
4(f)	1202
4(g)	401
5(a)	701, 2206
5(b)	702, 703, 705
5(c)	701, 706
5(d)	1203(a), (b)
5(e)	704, 705, 1203(c)
5(f)	707
6	2402
7(a)	2207(a)
7(a)(5)	1304
7(a)(6)	1207
7(b)	1306
7(c)	1304(b)
7(d)	1301(e)
7(e)	1302, 1304(c), 1305(b)
7(f)	1304(d)
7(g)	1305(a)
7(h)	1303
7(i)	2207(b)
8	409, 1501(d)
9	1101
10	1703, 2101
11(a)	1103
11(b)	1104, 1105
12	1102
13	2301
14	2214(b)
15	201(a–f)
15(f)	201g
16	1801(a)
17(a)	1301(a–d), 1401
17(a)(6)	1207
17(b)	1402
17(b)(14)	1412(b)
17(c)	1403
17(d)	1407(a–c)
17(e)(1)	1409(a)
17(e)(2)	1409(b)
17(f)	1405
17(f)(4)	1414
17(f)(5)	1408(a), 1801(a)
17(f)(6)	1406
17(f)(7)	1407(e)
17(f)(8)	1409(c)
17(f)(9)	1410
17(f)(10)	1407(d)
17(f)(11)	1411
17(f)(12)	1412
17(f)(13)	1412(c)
17(f)(14)	1409(d)
17(g)	1415, 2208
17(h)	1413
17(i)	1404
17(j)	1408(b)
17(k)	2002(a)
17(l)	1501(g)
18(a)	1702
18(b)	2211
19(a)	1601(a)
19(b)	1601(b)
19(c)	1602
19(d)	1603
19(d)(4)	1605(a)
19(d)(5)	1606
19(e)	1604, 2101
19(f)(2)	1607(a)
19(f)(3)	1608
19(f)(4)	1607(b)
19(g)(1)	1607(c)
19(g)(2)	1801(a)
19(h)(1)	1611
19(h)(2)	1609
19(h)(3)	1609
19(i)(2)	1610
19(j)(3)	1605(b), 2210
19(f)(1)	1605(c)
20	101, 501(a)

[1] National School Lunch Act, Public Law 79–396, 60 Stat. 230, June 4, 1946.

[2] Child Nutrition Act of 1966, Public Law 89–642, 80 Stat. 885, Oct. 11, 1966.

TABLE 2.—*Cross reference*

New legislation	Old legislation
101	2,22 NSLA [1]
	2,20 CNA [2]
201(a–f)	12(d), 13(a) NSLA
	15 CNA
201(g)	8 NSLA, 15(f) CNA
301	4,7 NSLA
302	4 NSLA
303	11 NSLA
304(a)	11(a) NSLA
304(b)	12(f) NSLA
305	7 NSLA
306	7 NSLA
307(a) & (b)	8 NSLA
307(c)	11(b) NSLA
307(d)	8 NSLA
308	9(b) NSLA
309(a), (b)	9(b) NSLA
309(c)	9(c) NSLA
309(d), (e)	9(b) NSLA
309(f), (g)	11(e) NSLA
309(h)	9(c) NSLA
310	9(a) NSLA
311(a), (b)	9(a) NSLA
311(c)	22 NSLA
312(a)	9(c) NSLA
312(b)	6(a)(3) NSLA
313	20(d) NSLA
401	4(g) CNA
402	4(a), (b) CNA
403	4(b)(1) CNA
404(a)	11(a) NSLA
404(b)	12(f) NSLA
405(a), (b), (c)	4(b)(2)(A), (B), (C) CNA
405(d)	4(d) CNA
406	4(c) CNA
407	4(e) CNA
408	4(e) CNA
409	8 CNA
501	22 NSLA, 20 CNA
601	3 CNA
602	3 CNA
603	3 CNA
701	5(a), (c) CNA
702	5(b) CNA
703	5(b) CNA
704	5(e) CNA
705	5(b), (e) CNA
706	5(c) CNA
707	5(f) CNA
801	13(a)(1) NSLA
802	13(a)(1) NSLA
803	13(n) NSLA
804(a)	13(a)(3) NSLA
804(b)	13(a)(4) NSLA
805(a)	13(b)(1) NSLA
805(b)	13(b)(3) NSLA
806	13(d) NSLA
807(a)	13(e)(1) NSLA
807(b)	13(e)(2) NSLA
808	13(a)(5) NSLA
809	13(g) NSLA
810	13(f) NSLA
811(a)	13(f), (h) NSLA
811(b)	13(b)(2) NSLA
811(c)	13(c) NSLA
812	13(a)(2) NSLA
813	13(f) NSLA
814	13(k) NSLA
815	13(l) NSLA
816	13(g) NSLA
901	17(a) NSLA
902	17(a) NSLA
903	17(a) NSLA
904	17(d) NSLA
905(a)	17(b) NSLA
905(b)	17(c) NSLA
906(a)	17(f)(1) NSLA
906(b)	17(f)(2) NSLA
906(c)	17(f)(3) NSLA
906(d)	17(f)(4) NSLA
907	17(f)(4) NSLA
908	17(f)(5) NSLA
909	17(e) NSLA
910	17(k) NSLA
911	17(g) NSLA
912	17(n) NSLA
913	17(j) NSLA
914	17(o) NSLA
915	17(l) NSLA
1001	11(e)(1) NSLA
1002	4(d) CNA
1003	13(n) NSLA
1004	17(i) NSLA
1101	9(c) NSLA; 9 CNA
1102	12 CNA
1103	12(c) NSLA; 11(a) CNA
1104	13(j), 17(p) NSLA; 11(b) CNA
1105	12(c) NSLA; 11(b) CNA
1106	12(h) NSLA
1107	14(e) NSLA
1201	10 NSLA
1202	4(f) CNA
1203(a), (b)	5(d) CNA
1203(c)	5(e) CNA
1204	13(i) NSLA
1205	17(m) NSLA
1206	19(d)(6) CNA
1207	7(a)(6) CNA
1301(a), (b), (c), (d)	7(a) CNA
1301(e)	7(d) CNA
1302	7(e) CNA
1303	7(h) CNA
1304(a)	7(a)(5) CNA
1304(b)	7(c) CNA
1304(c)	7(e) CNA
1304(d)	7(f) CNA
1305(a)	7(g) CNA
1305(b)	7(e) CNA
1306	7(b) CNA
1401	17(a) CNA
1402	17(b) CNA
1403	17(c) CNA
1404	17(i) CNA
1405	17(f) CNA
1406	17(f)(6) CNA
1407(a), (b), (c)	17(d) CNA
1407(d)	17(f)(10) CNA
1407(e)	17(f)(7) CNA
1408(b)	17(j) CNA
1409(a)	17(e)(1) CNA
1409(b)	17(e)(2) CNA
1409(c)	17(f)(8) CNA
1409(d)	17(f)(14) CNA
1410	17(f)(9) CNA
1411	17(f)(11) CNA
1412(a)	17(f)(12) CNA
1412(b)	17(b)(14) CNA
1412(c)	17(f)(13) CNA
1413	17(h) CNA
1414	17(f)(4) CNA
1415	17(g) CNA
1501(a)	6(a) NSLA
1501(b)	14(a) NSLA
1501(c)	9(c) NSLA
1501(d)	8 CNA
1501(e)	13(h) NSLA
1501(f)	17(h) NSLA
1501(g)	17(l) NSLA
1501(h)	14(b) NSLA
1501(i)	6(e) NSLA
1502	14(d) NSLA
1503(a)	6(e) NSLA
1503(b)	17(h) NSLA
1504(a)	6(b) NSLA
1504(b)	6(c) NSLA
1504(c)	6(d) NSLA
1504(d)	6(e) NSLA
1504(e)	17(h) NSLA
1504(f)(1)	16(a) NSLA
1504(f)(2)	16(b) NSLA
1505(a)	14(c) NSLA
1505(b)	14(a) NSLA
1601(a)	19(a) CNA
1601(b)	19(b) CNA
1602	19(c) CNA
1603(a)	19(d)(1)
1603(b)	19(d)(2)
1603(c)	19(d)(3)
1604	19(e) CNA
1605(a)	19(d)(4) CNA

1605(b)	19(j)(2) CNA
1605(c)	19(j)(3) CNA
1606	19(d)(5) CNA
1607(a)	19(f)(1) CNA
1607(b)	19(f)(3) CNA
1607(c)	19(f)(4) CNA
1608	19(f)(2) CNA
1609	19(h)(1)(2) CNA
1610	19(h)(3) CNA
1611	19(g)(2) CNA
1701	6(a)(3) NSLA
1702	18(a) CNA
1703	10 CNA
1801(a)	12(a), 13m NSLA 17(f)(5), 19(g)(1), 16 CNA
1801(b)	17(q) NSLA
1901	12(g) NSLA
1902(a)	13(o)(1) NSLA
1903(b)	13(o)(2) NSLA
1902(c)	13(o)(3) NSLA
2001	15 NSLA
2002	17(k) CNA
2101	10 CNA; 19(e) CNA
2201	3 NSLA
2202	4(a) CNA
2203	3 CNA
2204	13(p) NSLA
2205	17(r) NSLA
2206	5(a) CNA
2207(a)	7(a) CNA
2207(b)	7(i) CNA
2208	17(g) CNA
2209	14(c) NSLA
2210	19(j)(2) CNA
2211	18(b) CNA
2212	3 NSLA
2213	3 NSLA
2214(a)	6(a) NSLA
2214(b)	14 CNA
2301	13 CNA
2302	4(a) CNA
2401	7 NSLA
2402	6 CNA

TABLE 3.—*Omitted provisions*

GENERAL

All obviously obsolete provisions relating to a prior year.

References to section 10, NSLA, or to Secretary as an alternate to State. See, for example, section 5(f), (1) CNA. It would not seem necessary to refer to operation by the Secretary in view of the express language of provisions authorizing the Secretary to act. See title XII of the new "Act." Also, if references are to be made to the Secretary as an alternate program administrator, the references to operation by the Secretary should be made much more frequently.

A reference to "grants-in-aid" is made only in the "Declaration of Policy." The various program provisions are specific as to the type of program to be conducted.

NATIONAL SCHOOL LUNCH ACT

§ 5 and all references to § 5.
§ 6(a)(2).
Reference in § 7 to agreements between Secretary and States.
The provisos at the end of § 11(a).
§ 11(c).
§ 11(d).
§ 12(b).
§ 12(d)(4) & (5).
The proviso at the end of § 13(b)(1).
The reference to the study at the end of § 13(b)(3).
§ 13(b)(4).
The first sentence of the last ¶ of § 14(d).
§ 18.
§ 19.
§ 20(a), (b), (c).
§ 21.

CHILD NUTRITION ACT OF 1966

The third sentence of § 4(c).
The last sentence of § 4(g).●

By Mr. SARBANES:

S. 1899. A bill to amend the Chesapeake and Ohio Canal Development Act to change the termination date of the Chesapeake and Ohio Canal National Historical Park Commission from the date 10 years after the effective date of such act to the date 20 years after such effective date; to the Committee on Energy and Natural Resources.

● Mr. SARBANES. Mr. President, I am pleased to introduce this legislation which would extend the life of the C. & O. Canal Citizen Advisory Commission beyond its current expiration date in 1981. The intent of this bill is that the outstanding work of the Commission, one of the most effective and useful citizen panels ever created by Federal law, be continued for an additional 10 years. This legislation is being advanced in the House of Representatives by my colleagues Congressman MICHAEL BARNES and Congresswoman BEVERLY BYRON, where congressional districts encompass the Maryland portion of the national park.

The Chesapeake and Ohio Canal National Historical Park Commission, as it is officially known, was created in 1971 at the same time that the canal was designated a national park. The Commission was established in recognition of the unique character of the canal. Unlike most other national parks, the C. & O. Canal is situated close by thriving urban and suburban communities in the District of Columbia and Maryland. Because of this close proximity, the Citizen Advisory Commission has been an important instrument in providing a voice for the concerns of the members of these communities.

During the past 8 years, volunteer representatives from Montgomery, Frederick, Washington, and Allegany Counties in Maryland have joined with other citizens from the District of Columbia, Virginia, and West Virginia in providing valuable advice regarding the operation and maintenance of the canal. With the guidance of the Commission, the Department of the Interior developed a comprehensive master plan for the long-range management of the canal. The result of this activity has been greater use and enjoyment of this national treasure by thousands of Americans. It is my hope that Congress will act to insure the continued success of the C. & O. Canal as a national park by retaining this very worthwhile citizen advisory group, the Chespeake and Ohio Canal National Historical Park Commission.●

ADDITIONAL COSPONSORS

S. 300

At the request of Mr. KENNEDY, the Senator from Nevada (Mr. LAXALT) was was added as a cosponsor of S. 1619, a bill Antitrust Enforcement Act of 1979.

S. 1619

At the request of Mr. MATHIAS, the Senator from Montana (Mr. MELCHER) was added as a consponsor of S. 300, the to provide that motion picture films and video tapes which are produced for sale or rent as training films are to be treated as educational films for purposes of the investment credit.

S. 1865

At the request of Mr. KENNEDY, the Senator from Calfornia (Mr. HAYAKAWA) added as a consponsor of S. 1865, the Radiation Exposure Compensation Act of 1979.

S. 1884

At the request of Mr. HART, the Senator from Alabama (Mr. STEWART) was added as a cosponsor of S. 1884, a bill to provide that legislation appropriating funds for payment of salaries to federal employees shall be enacted separately from other legislation.

AMENDMENT NO. 518

At the request of Mr. HUDDLESTON, the Senator from West Virginia (Mr. ROBERT C. BYRD) and the Senator from Arizona (Mr. GOLDWATER) were added as cosponsors of amendment No. 518 intended to be proposed to the resolution of ratification of the treaty between the United States of America and the Union of Soviet Socialist Republics on the Limitation of Strategic Offensive Arms (Ex. Y, 96-1).

AMENDMENT NO. 520

At the request of Mr. HUDDLESTON, his name was added as a cosponsor of amendment No. 520 proposed to H.R. 4930, the Interior appropriations bill.

SENATE RESOLUTION 257—ORIGINAL RESOLUTION REPORTED WAIVING THE CONGRESSIONAL BUDGET ACT

Mr. CHURCH, from the Committee on Foreign Relations, reported the following original resolution, which was referred to the Committee on the Budget.

S. RES. 257

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of S. 1012, a bill to provide for the participation of the United States in the International Energy Exposition to be held in Knoxville, Tennessee, in 1982, and for other purposes. Such a waiver is necessary to allow the authorization of $20,800,000 in additional budget authority for fiscal year 1980 to carry out United States participation in this exposition.

Compliance with section 402(a) of the Congressional Budget Act of 1974 was not possible by the May 15, 1979, deadline, because of a delay in the presentation of the Administration's position on this legislation.

The effect of defeating consideration of this supplemental authorization will be a disruption of U.S. efforts to prepare for this exposition.

The desired authorization will not delay the appropriations process.

SENATE RESOLUTION 258—ORIGINAL RESOLUTION REPORTED WAIVING THE CONGRESSIONAL BUDGET ACT

Mr. CHURCH, from the Committee on Foreign Relations, reported the following original resolution, which was referred to the Committee on the Budget.

S. RES. 258

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of S. 1668, a bill to authorize additional appropriations for the Department of State for migration and refugee assistance for fiscal year 1980. Such a waiver is necessary to allow the authorization of $207,290,000 in additional budget authority for fiscal year 1980 for migration and refugee assistance. The amount previously authorized for this purpose, $248,951,000, has proven inadequate to fund the United States refugee effort.

Compliance with section 402(a) of the Congressional Budget Act of 1974 was not possible by the May 15, 1979, deadline, because of the unexpected increases in the flow of refugees from Southeast Asia.

The effect of defeating consideration of the supplemental authorization will be a disruption of the U.S. refugee program.

The desired authorization will not delay the appropriations process.

AMENDMENTS SUBMITTED FOR PRINTING

ADOPTIVE ASSISTANCE AND CHILD WELFARE ACT OF 1979—H.R. 3434

AMENDMENT NO. 522

(Ordered to be printed and to lie on the table.)

Mr. SCHWEIKER submitted an amendment intended to be proposed by him to H.R. 3434, an act to amend the Social Security Act to make needed improvements in the child welfare and social services programs, to strengthen and improve the program of Federal support for foster care of needy and dependent children, to establish a program of Federal support to encourage adoptions of children with special needs, and for other purposes.

● Mr. SCHWEIKER. Mr. President, today I submit an amendment to H.R. 3434, the Adoption Assistance and Child Welfare Act of 1979.

This amendment is similar to amendment No. 507, which I submitted October 9, as it makes urgently needed improvements in title XIX (medicaid) program administration by requiring prompt installation of computerized medicaid management information systems. After informal consultation with Senate Finance Committee staff, however, I have made some minor changes in the amendment to insure that sufficient flexibility among the States is allowed. I appreciate the help the Finance Committee staff has given me in drawing up this amendment, and feel that it has been improved.

Mr. President, I ask unanimous consent that the text of my amendment, a section-by-section analysis, and a summary of the status of MMIS in the States be printed at this point in the RECORD.

There being no objection, the amendment and material were ordered to be printed in the RECORD, as follow:

AMENDMENT NO. 522

At the end of the bill insert the following new sections:

MECHANIZED CLAIMS PROCESSING AND INFORMATION RETRIEVAL SYSTEMS

SEC. 308. Section 1903 of the Social Security Act is amended by adding at the end thereof the following new section:

"(r)(1) The amount otherwise payable for any quarter under paragraphs (2) and (7) of subsection (a) (without regard to this subsection) shall be reduced by an amount equal to—

"(A) 25 percent of such amount otherwise payable, for any quarter beginning on or after July 1, 1980, and ending before July 1, 1981,

"(B) 50 percent of such amount otherwise payable, for any quarter beginning on or after July 1, 1981, and ending before July 1, 1982,

"(C) 75 percent of such amount otherwise payable, for any quarter beginning on or after July 1, 1982, and ending before July 1, 1983, and

"(D) 100 percent of such amount otherwise payable, for any quarter beginning on or after July 1, 1983,

with respect to any State which fails to meet the requirements of paragraph (2).

"(2)(A) In order to receive payments under section 1903(a) without being subject to reduction under paragraph (1) of this subsection, a State must provide that mechanized claims processing and information retrieval systems of the type described in section 1903(a)(3)(A)(i) which are approved by the Secretary as achieving the objectives of an effective system at reasonable cost (whether such systems are operated directly by the State or by another person under a contract with the State) be operational with respect to the entire State, and that such systems meet the requirements of paragraph (3) of this subsection.

"(B) With respect to quarters ending before July 1, 1981, payments to a State shall not be subject to reduction under paragraph (1) of this subsection if such State has submitted, and the Secretary has not formally disapproved, an advanced planning document which specifically describes (in reasonable detail) the State's plans for installing and operating mechanized claims processing and information retrieval systems described in subparagraph (A).

"(3)(A) In order to be approved by the Secretary, or to be reapproved by the Secretary in the case of a system which is initially approved but is subsequently disapproved, mechanized claims processing and information retrieval systems must meet the following requirements:

"(i) The systems must be capable of developing provider, physician, and patient profiles which are sufficient to provide specific information as to the use of covered types and items of service, including prescribed drugs, to the extent such profiles are not duplicative of information developed and available under the program established under part B of title XI of this Act.

"(ii) The State must provide that information on possible fraud or abuse which is obtained from, or developed by, the systems is made available to the State's medicaid fraud control unit (if any) certified under subsection (q) of this section.

"(iii) The systems must meet the standards developed by the Secretary under paragraph (4).

"(B) Any mechanized claims processing and information retrieval system which does not meet the requirements of subparagraph (A) shall not be approved by the Secretary (in the case of a State which is seeking initial approval of its systems) or shall be disapproved by the Secretary (in the case of a State which has systems which were initially approved). The Secretary shall periodically reassess the systems in operation in each State to determine whether the systems should be disapproved.

"(4) The Secretary, with respect to State systems, shall—

"(A) develop written approval procedures for use in approving State systems, including specific criteria for testing systems in operation to insure that all performance standards and requirements are met;

"(B) establish and periodically update the systems performance criteria, objectives, regulations and guides;

"(c) give priority to aiding States in the development and improvement of the systems so as to continually improve the capacity of such systems to effectively detect cases of fraud or abuse;

"(D) for the purpose of ensuring compatibility between the State systems and the systems utilized in the administration of title XVIII—

"(i) develop a uniform identification coding system for providers, other persons receiving payments under the State plans (approved under this title) or under title XVIII, and beneficiaries of medical services under the State plans (approved under this title) or under title XVIII;

"(ii) provide liaison between States and carriers and intermediaries having agreements under title XVIII to facilitate timely exchange of appropriate data; and

"(iii) improve the exchange of data between the States and the Secretary with respect to providers and other persons who have been terminated, suspended, or otherwise sanctioned under a State plan (approved under this title) or under title XVIII;

"(F) develop and disseminate clear definitions of those types of reasonable costs relating to the State systems which are reimbursable under the provisions of subsection (a)(3) of this section; and

"(G) report on or before April 1, 1981, to the Congress on the extent to which States have developed and operated effective mechanized claims processing and information retrieval systems.

"(5)(A) In any case in which a State's mechanized claims processing and information retrieval system is disapproved by the Secretary pursuant to paragraph (3)(B) of this subsection, the State (with the assistance of the Secretary) shall develop a corrective action plan for bringing the system back into compliance with the requirements of paragraph (3)(A) of this subsection, and submit such plan to the Secretary within a period of time which the Secretary determines to be adequate to submit such plan, but not to exceed one year after the disapproval.

"(B) If the State's system has not been reapproved by the Secretary as being in compliance with the requirements of paragraph (3)(A) within a period of time after

disapproval which the Secretary determines to be adequate to comply with such requirements but not to exceed two years, payments to such State under this section shall be made without regard to the provisions of subsection (a)(3).

"(C) If the State's system has not been so reapproved within one year after the date on which payments to the State were reduced under subparagraph (B), the payments with respect to administrative costs made to such State under paragraphs (2), (3), and (7) of subsection (a) shall be made at a reimbursement rate of 25 percent rather than the percentage specified in such paragraphs.

"(D) If the State's system has not been so reapproved within two years after the date on which payments to the State were reduced under subparagraph (B), no payments with respect to administrative costs shall be made to such State under paragraphs (2), (3), and (7) of subsection (a).

"(E) If a State's system is reapproved, payments under this section shall be made without regard to this paragraph beginning with the first quarter that begins after the date of such reapproval.

"(6)(A) The Secretary shall waive the provisions of this subsection in which or in part with respect to any State which had a 1976 population (as reported by the Bureau of the Census) of less than 1,000,000 and which made total expenditures reimbursable under this title of less than $100,000,000 in fiscal year 1976 (as reported by such State for such year), if such State reasonably demonstrates, and the Secretary does not formally disagree, that the application of such provisions would not significantly improve the efficiency of the administration of such State's plan under this title, including the State's ability to develop provider, physician, and patient profiles as described in paragraph (3)(A)(i).

"(B) A waiver granted under subparagraph (A) may be withdrawn if the Secretary determines that the State no longer meets the criteria for such waiver. If such waiver is withdrawn, the State shall develop a plan to be followed for the expeditious installation or modification of a mechanized claims processing and information retrieval system.

"(C) If the State's system is not approved by the Secretary as being in compliance with the requirements of paragraph (3)(A) within such period of time after the waiver granted under subparagraph (A) is withdrawn as the Secretary determines to be reasonable to comply with such requirements, but not to exceed two years, payments made to such State under paragraphs (2), (3), and (7) of subsection (a) shall be made at a rate equal to 50 percent of the rate otherwise payable under such paragraphs.

"(D) If such system has not been so approved within a period of one year after the expiration of the period described in subparagraph (C), payments made to such State under paragraphs (2), (3), and (7) of subsection (a) shall be made at a rate equal to 25 percent of the rate otherwise payable under such paragraphs.

"(E) If such system has not been so approved within a period of one year after the expiration of the period described in subparagraph (D), no payments shall be made to such State under paragraphs (2), (3), and (7) of subsection (a).

"(7)(A) The reduction in payments to States required under paragraphs (1), (5) and (6) of this subsection shall not apply to a State for any quarter with respect to which the Secretary determines that such State is unable to comply with the requirements of such paragraphs due to circumstances beyond the control of such State.

"(B) If the Secretary determines under subparagraph (A) that a State is not subject to such reductions, he shall recommend a plan for corrective action so that such State's system will expeditiously meet the requirements for approval under this subsection, and shall report to the Congress on each such determination, including a description of the plan for corrective action.".

"(C) For purposes of determining all time limitations and deadlines imposed under this subsection, any time period during which a State was found under subparagraph (A) to be unable to comply with requirements of this subsection due to circumstances beyond its control shall not be taken into account, and the Secretary shall modify all such time limitations and deadlines with respect to such State accordingly.".

EXCHANGE OF INFORMATION ON TERMINATED OR SUSPENDED PROVIDERS

SEC. 309. (a) Section 1862(d) of the Social Security Act is amended by adding at the end thereof the following new paragraph:

"(5) The Secretary shall promptly notify each State agency which administers or supervises the administration of a State plan approved under title XIX of any determination made under the provisions of this subsection.".

(b) Section 1866(c) of such Act is amended by adding at the end thereof the following new paragraph:

"(3) Where an agreement filed under this title by a provider of services has been terminated by the Secretary, the Secretary shall promptly notify each State agency which administers or supervises the administration of a State plan approved under title XIX of such termination.".

(c) Section 1902(a) of such Act is amended—

(1) by striking out "and" at the end of paragraph (39);

(2) by striking out the period at the end of paragraph (40) and inserting in lieu thereof "; and"; and

(3) by adding after paragraph (40) the following new paragraph:

"(41) provide that whenever a provider of services or any other person is terminated, suspended, or otherwise sanctioned or prohibited from participating under the State plan, the State agency shall promptly notify the Secretary of such action.".

SECTION-BY-SECTION ANALYSIS OF SCHWEIKER MEDICAID AMENDMENT

Section 308:

Paragraphs 1–2: The first two paragraphs of the amendment establish penalties for states that fail to institute and have approved by HEW a computerized claims processing and information retrieval system (also known as a Medicaid Management Information System, MMIS). The penalties are in the form of reduced federal matching funds for the administration of the State Medicaid program. States (unless waived) must have submitted plans for installation by July 1, 1980, and must have the system operational by July 1, 1981.

Paragraph 3A: Stipulates that in order for a state's computerized system to be approved, making the state eligible for increased matching funds, certain basic requirements must be met.

(1) The system must include provider, physician, and patient profiles which are sufficient to provide charting of drug and service use.

(2) The state must agree that all information on possible fraud or abuse obtained from the system be turned over to the State Medicaid Fraud Control Unit so that further action may be taken.

(3) The system must meet certain standards developed by HEW under the direction of Section 308 Paragraph 4 of this bill.

Paragraph 3B: Requires HEW to review periodically state systems in operation to see if they continue to meet established standards. If they do not, they will be de-certified and subject to the penalties established in Section 308 Paragraph 5.

Paragraph 4: Requires the Secretary of HEW to develop specific criteria for checking states' systems in operation, and forces HEW to take a more active role in advocating computerized systems and aiding states with technical problems. HEW is directed to give priority to developing the capability of the computerized system to detect cases of possible fraud or abuse, to develop guidelines for states to follow so that their Medicaid and Medicare systems become compatible, and to define the precise kinds of costs that the federal government will reimburse as part of the mechanized management system. HEW must report to Congress on the progress of the states in developing effective systems.

Paragraph 5: Outlines penalties to be assessed to states that fail to meet minimum established standards upon periodic inspection. States are given up to two years to bring their system into compliance with standards before they lose federal funds. HEW is to aid the noncomplying state to make necessary improvements. If states fail to meet standards after two years have elapsed from the finding of noncompliance, they become subject to penalties in the form of reduced matching funds for Medicaid administrative costs.

If a state system is recertified by HEW, full federal funds are restored.

Note that the penalties in this paragraph are different from those established in paragraphs 1–2. Paragraphs 1–2 penalties apply to states that fail to install mechanized systems; these penalties apply to states that have installed an initially approved system but have failed to maintain it properly. These penalties will apply, for example, to any of the states that already have initially approved systems if inspection shows that their system does not meet minimum performance standards.

Paragraph 6: A waiver provision—requires the Secretary to waive the requirement that states install mechanized systems if the state had a 1976 population of under one million, FY 1976 total Medicaid expenditures of under $100 million, and can reasonably demonstrate that the efficiency of administration of its Medicaid program would not significantly improve with MMIS installation. This section also gives the Secretary the authority to lift the waiver if he determines the situation has changed enough in the state that a mechanized system would be beneficial.

Paragraph 7: Provides that the penalties for states outlined in paragraphs 1–2 and 5 of this amendment will not apply if the Secretary determines, and demonstrates to Congress, that a state is unable to comply with the requirements of the amendment due to circumstances beyond the control of the state.

Section 309:

Provides that information on the status of providers (e.g. "terminated," "suspended," or "On probation") must be exchanged between the federally administered Medicare

system and each state's Medicaid system, and vice-versa.

STATUS OF MEDICAID MANAGEMENT INFORMATION SYSTEM (MMIS)

1. States approved for 75% Federal Financial Participation (FFP) for operations of a mechanized claims processing and information retrieval system: (27)

Alabama, Arkansas, California, Florida, Georgia, Hawaii, Idaho, Indiana, Kansas, and Louisiana.

Michigan, Minnesota, Montana, Nebraska, New Hampshire, New Mexico, New York (N.Y.C. only), North Carolina, North Dakota, and Ohio.

Oklahoma, Texas, Utah, Vermont, Virginia, Washington, and Wisconsin.

2. States that do not have fully operational mechanized claims processing and information retrieval systems. Some states listed have partially operational systems, but have not yet met the standards for 75% FFP.

Alaska, Colorado, Connecticut, Delaware, District of Columbia, Guam, Illinois, Iowa, Kentucky, Maine, Maryland, Massachusetts, Mississippi, and Missouri.

Nevada, New Jersey, New York (Balance of State), Northern Mariana Islands, Oregon, Pennsylvania, Puerto Rico, Rhode Island, South Carolina, South Dakota, Tennessee, Virgin Islands, West Virginia, and Wyoming.

3. No Medicaid Program.

American Samoa, and Arizona.●

NOTICES OF HEARINGS

SUBCOMMITTEE ON FEDERAL SPENDING PRACTICES AND OPEN GOVERNMENT

● Mr. CHILES. Mr. President, I would like to record a date and time change in a previously announced hearing of the Subcommittee on Federal Spending Practices and Open Government. The hearing on fraud and abuse in the Community Services Administration will be held on Friday, October 19, 1979, at 9:30 a.m. in room 3302 Dirksen Senate Office Building.

Anyone wishing additional information about this hearing may contact the subcommittee office at 224-0211.●

SUBCOMMITTEE ON AGRICULTURE CREDIT AND RURAL ELECTRIFICATION

● Mr. ZORINSKY. Mr. President, on November 6, 1979 the Subcommittee on Agricultural Credit and Rural Electrification will hold an oversight hearing on the Farmers Home Administration. The hearing is scheduled for 9:00 a.m. in room 324 of the Russell Senate Office Building.

The subcommittee intends to examine a number of problems related to the current operations of the Farmers Home Administration. These include problems relating to the rapidly growing, outstanding debt to the agency and personnel problems associated with loan supervisions and counseling.

In addition the subcommittee will examine both the operation of the guaranteed agricultural loan programs and difficulties the agency has had with respect to the economic disaster loan program. The subcommittee also intends to look into the problems relating to the installation of a management information system at the agency.

The Agricultural Credit and Rural Electrification Subcommittee will hear from invited witnesses on November 2. Written testimony is welcome, and may be sent to the Senate Agriculture Committee, Russell 324.●

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on Wednesday, October 17, 1979 beginning at 2 p.m. to hold a hearing on pending executive nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ARMED SERVICES

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the sessions of the Senate today, Wednesday, October 17, 1979 and Thursday, October 18, 1979 to hold hearings on the SALT II treaty and protocol.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

TAXFLATION DISTORTS OUR TAX POLICY

● Mr. DOLE. Mr. President, whenever politicians talk of modifying the tax structure, they discuss things like altering the progressivity of the income tax, shifting the tax burden from the individual to the corporation, and increasing or decreasing the use of tax incentives to modify behavior. Lately there has been consideration of using a value added tax to reduce the tax liability on personal income. These are all questions that need to be aired, but it must be pointed out that, in a very real sense, politicians who address these issues simply cannot know what they are talking about.

The problem is that inflation distorts the tax system. Without taking inflationary distortions into account, it is impossible to discuss intelligently the impact of making this or that change in tax policy. Tax rates on given income levels change each year because of inflation, although Congress periodically adjusts the rates, just as it changes income tax deductions, exemptions, and credits. Some of the rate reductions made by Congress are designed to compensate for the effects of inflation.

Yet the very fact that Congress tries to make such compensation at the same time as it makes other changes in the tax laws makes it difficult to sort out the effects of the compensation from the other policy changes. As a result, we cannot know for sure whether policy changes have quite the intended effect.

Consider the very basic matter of setting the rate of tax deemed appropriate for certain income levels. Suppose a 10-percent inflation rate has increased overall taxes by pushing people into higher brackets and increasing the importance of the marginal rate within each bracket.

Further, suppose that Congress wishes to correct this effect by cutting tax rates. Most congressional tax cuts have other effects, such as increasing the progressivity of the system. But how can we separate out the inflation-correcting action from the change in progressivity? Because of recurring inflationary tax increases, we do not have the ability to make clear-cut changes in tax policy whose effects are readily measurable.

A further point should be made. When Congress cuts taxes partly in order to compensate for inflation, the cuts do not correspond exactly to the inflation tax burden. That burden, or "taxflation," falls more heavily on some groups than others. In cutting taxes, Congress never gears the tax cuts to income groups that have suffered most from taxflation. As a result, some people are never adequately compensated for taxflation, while others are overcompensated.

There is a simple way to clarify the situation so that Congress can see just what it is doing when it adjusts tax policies. All that is needed is to index the income tax for inflation so that inflationary tax increases are automatically compensated for. Not only will automatic adjustments relieve Congress of this problem, but the compensation for taxflation will be aimed at taxpayers in direct proportion to the tax increase they have experienced.

Mr. President, the Tax Equalization Act, S. 12, would accomplish the very goal described above. It would require adjusting the income tax brackets, zero bracket amount, and personal exemption by the percentage rise in the Consumer Price Index for the previous fiscal year. This system will provide the maximum correction possible in time for preparing withholding tables for the coming tax year. We should get on with tax equalization so that we may have better control over tax policy. This is one of the many reasons why the Senator from Kansas introduced S. 12, and one of the reasons why the bill is needed now.●

SECRETARY VANCE PROPOSES INTERNATIONAL STRATEGY TO MEET COMMON NEEDS IN A DIVERSE WORLD

● Mr. McGOVERN. Mr. President, Secretary of State Cyrus Vance made an excellent speech last week before the 34th session of the U.N. General Assembly. He placed the United States on the side of taking advantage of new opportunities for collective effort and creative diplomacy to meet the increasingly complex international challenges we face. He called on the members of the United Nations to resist the voices of international confrontation. The need, he said,

is to resolve and not to deepen the divisions which hinder international progress on arms control, energy, economic growth, and other major problems. Mr. President, Secretary Vance has set out a challenging agenda for the General Assembly to find enlarged areas of common ground where diverse nations with diverse interests can stand. I hope that other members of the U.N. will respond constructively to his proposals so that we may have a fruitful and important session of the General Assembly in the weeks ahead. I ask permission to print the text of Secretary Vance's remarks in the RECORD for the benefit of my colleagues.

The text of the remarks follows:

UN: COMMON NEEDS IN A DIVERSE WORLD

(By Secretary of State Vance)

We meet in this General Assembly on the threshold of a new decade. It will be a time of complex challenge—a period in which, more than ever, cooperative endeavors among nations are a matter not only of idealism but of direct self-interest.

The decade now drawing to a close has been characterized by rapid change—far-reaching and fundamental.

Awesome technological developments are all about us.

The assertion of national independence has reshaped the political geography of our planet.

Within nations, we see an accelerating rise in individual economic, political and social expectations.

The unrelenting hostility of the Cold War has given way to a more complex relationship between East and West, with elements of both competition and cooperation.

The simple notion of a bipolar world has become obsolete. Increasingly there is a profusion of different systems and allegiances and a diffusion of political and military power.

The world economic order is also undergoing inexorable transformations. Many nations, formerly among the disadvantaged, now are achieving global economic power. Economic interdependence has become a daily reality for the citizens of every nation.

These sweeping changes have, for the most part, worked in constructive directions, changing lives for the better and opening new possibilities for collective effort and creative diplomacy.

But while these developments demonstrate that progress is possible, they by no means demonstrate that it is inevitable. I say this for two reasons.

First, in a number of areas, the pace of current progress is dwarfed by the scope of coming challenges. The next decade will decide whether we have the collective wisdom and the common will to surmount a series of imposing and interrelated problems which must be dealt with in a comprehensive manner.

The need to develop new forms of energy will pose a continuing challenge. We have entered the difficult transition from a petroleum economy to one based on other forms of energy.

Even without this added burden, we face an imposing task in providing for the basic needs of people and in narrowing the combustible disparity between wealth and despair. The food shortage facing developing countries, for example, was 12 million tons in 1975. It could be 70–85 million tons by 1990, unless productivity rises sharply.

We must strike a decent balance between the burgeoning demands of more people for a better life and the inescapable reality of a fragile environment.

Such prospects carry the seeds of future discord. As these seeds ripen, and the growth and spread of weapons continue, regional conflicts become all the more dangerous—in their toll of lives and resources and in the heightened risk of wider confrontation.

And despite our emergence from the days of unrelenting hostility, the East-West relationship can deteriorate dangerously whenever one side fails to respect the security interests of the other.

Our ability to meet these tests depends on a second issue: Will we confront such challenges together, and benefit together? Or will we let adversity divide us, and thus conquer? I must be frank to say that I am not sure what the answer will be.

There are some reasons for encouragement. In recent years, the nations here represented have found it easier, in many different forums, to talk with each other rather than at each other.

East and West have entered into the broadest arms control agenda in history. The Soviet Union and the United States have negotiated significant limitations on strategic arms in a treaty that now awaits ratification.

North and South have made progress on financial, trade, and commodity issues—far more progress than has been acknowledged. Agreement has been reached on a sharp increase in the resources of the International Monetary Fund. Lending by the multilateral development banks has increased. Expanded trade opportunities have been opened by the recent concluded trade negotiations. We have moved ahead on other matters such as international debt and a common fund for commodities. We should recognize such progress and build on it.

We have taken steps as well toward the resolution of some deeply imbedded regional disputes.

But I am concerned that there are also factors at work which could reverse this cooperative trend. The severity of the problems we face could drive nations to the pursuit of their own separate advantage at the expense of international cooperation. In times of economic trouble, even relatively prosperous countries find it more difficult to look beyond their internal concerns to meet international needs. Indeed, it is a vivid lesson of history that hardship can breed shortsighted insularity. It can arouse instincts for self-preservations at the expense of others. In such times, the voices of economic nationalism will be raised in all our countries. We must resist them.

We must resist, as well, the voices of international confrontation. In a number of international negotiations, political as well as economic, we have worked our way through to the toughest issues involved. We must not react now in frustration and unleash a spiral of rhetoric which can deepen rather than resolve our divisions.

The challenges of the 1980's can be met if each of us here represented meets the responsibilities we share.

SEARCH FOR PEACE

Our first responsibility is to persist in the search for peace, to reduce both the danger and the destructiveness of war.

The future of two regions—the Middle East and southern Africa—depends on specific decisions that will be made in the coming months.

Middle East

We believe the March 26, 1979, treaty between Egypt and Israel has reduced the dangers inherent in the Arab-Israeli conflict and has laid the foundation for a settlement that can be both durable and just.

But the dramatic achievement of peace between Israel and Egypt and the successful implementation of the first phases of the treaty of peace have not obscured the necessity to move toward peace between Israel and its other neighbors. Indeed, it remains the resolute view of my government that further progress toward an overall peace is essential.

We know that an ultimate settlement must address the legitimate rights of the Palestinian people. The Palestinian question must be resolved in all of its aspects.

As the peace process continues to unfold, it is our deepest desire that representatives of the Palestinian people and the Governments of Jordan and Syria will join in this great quest. This is consistent with, indeed it underscores, our unshakable commitment to Israel's security and well-being, now and in the future.

None of the parties involved in this difficult negotiation has any illusions that resolving the Palestinian issue will be easy. But the United States is convinced that progress will be made toward this goal.

Preserving the integrity of Lebanon is also critical to peace in the Middle East. There has been a cease-fire in southern Lebanon, the fragility of which is underscored by the events of the day. We need not only a cease-fire but a broader truce. We will be working toward such a goal in our discussions with other interested governments here at this Assembly. Lebanon has suffered all too much.

The desire for peace is shared by all the peoples of the Middle East. We recognize that there are disagreements about how best to reach that common goal. We believe the course on which we are embarked is the right one, indeed the only one that has shown practical results. We call on all who genuinely seek peace to join us in this endeavor.

Southern Africa

A step toward peace has been taken as well on the Rhodesian conflict. The parties are now engaged in negotiation toward a solution that could combine true majority rule with essential minority rights. The British Government, the Commonwealth nations, and the parties themselves deserve great credit for this new step. Agreement on a fair constitution and new elections, as called for in the Lusaka communique, could end the deepening agony of war.

We have made substantial progress in Namibia. But obstacles remain. The contact group [Canada, France, West Germany, United States, and United Kingdom] is working with the parties concerned to find ways to resolve the few outstanding issues. We do not understate the difficuties, but neither should any of us underestimate the opportunities that a settlement would bring for all of southern Africa.

In most negotiations, we can best make progress by stages. A knot can never be untied from the inside. We must begin with the parts we can grasp and work our way through to the end of the problem. History will judge us severely if we let our opportunities for peace slip away. As negotiations proceed, the issues we address become progressively more difficult. But we must not let future fears or ambitions undermine the progress that has been made.

As we work on these and other conflicts, let us also squarely face the fact that our planet is plagued by those who make war on innocents, as we saw just weeks ago in the

tragic death of Lord Montbatten. We must have greater international cooperation to combat the barbarous practices of the terrorist. The United States strongly supports the basic elements of the draft convention outlawing the taking of hostages. The conclusion of this treaty will contribute to a growing consensus that terrorism will not be tolerated, regardless of the political cause its perpetrators claim to pursue.

Arms control

Finally, the requirement of peace carries with it an international responsibility to limit the spread and accumulation of arms.

A particular obligation falls to the largest nuclear powers—the United States and the Soviet Union—to contain the competition in strategic weapons. The SALT II treaty can be a major step toward fulfillment of that obligation.

The goal of strategic stability will be further served if the Soviet Union, Great Britain, and the United States are able to agree on a Comprehensive Test Ban.

As the nuclear superpowers seek the path toward mutual restraint, all nations must also recognize the direct threat to their security from the spread of nuclear weapons. Developments in recent years can bring new impetus to the nonproliferation effort—including progress in the International Nuclear Fuel Cycle Evaluation, which can help us find safer ways to develop nuclear energy for humanity; the strengthening of International Atomic Energy Agency safeguards; the substantial increase in the number of parties to the Nonproliferation Treaty [NPT]; the entry into force of the Treaty of Tlatelolco, which now finally appears within grasp; and the pledge by a number of nuclear powers, under specific circumstances, to refrain from the use of nuclear weapons against nonnuclear states. But there have also been serious setbacks—further demonstrations of intent to acquire nuclear weapons, in disregard of the inherent dangers for regional and international security. The NPT Review Conference next year will be a critical time for taking stock—and for redoubling our efforts to make progress on this urgent international priority.

ECONOMIC NATIONALISM

Beyond the search for peace, a second responsibility we share is to be sensitive to the international consequences of our national economic decisions and resist the temptation to solve our economic problems at the expense of others.

The imprudence of economic nationalism has been harshly demonstrated in the past. The world depression a half-century ago was spread, deepened, and prolonged by a wave of protectionism. That memory has spurred us toward a new multilateral trade agreement intended to open markets and keep them open, even in a time of economic strain.

Energy

Today, let me address one of those issues which most clearly reflects the direct connection between national decisions and global consequences. That issue is energy. In almost no area is the need for common action more apparent or more urgent. It is an issue which now threatens to divide us, economically and politically. In a future of greater scarcity, these divisions could weaken the fabric of international comity which this organization embodies.

All nations will suffer if all nations do not act responsibly—in their consumption of energy, in its pricing, and in its production. Despite a difficult prognosis for our energy future, I believe the basis may exist for progress.

Until the 1970's, modern industrial economies operated on two basic assumptions, which also governed relations between oil importers and exporters—that oil is cheap and that supplies are unlimited. Now all nations realize that these assumptions no longer hold.

The commitments made by the major industrial countries at the Tokyo summit demonstrate this clearly. My government is taking ambitious action to address the energy problem and is making efforts to exceed these commitments.

President Carter has committed the United States not to import more than 8.2 million barrels of oil a day in 1979 and never to exceed the peak level our imports reached in 1977.

Total U.S. energy research and development this year is $3.2 billion. We are investing $528 million this year—and $600 million next year—in the development and use of solar energy.

We are significantly expanding our development of synthetic fuels to take advantage of the abundant coal and oil shale supplies in our country. Much of this new energy technology will have application in other countries as well. We will seek to make it available to others under mutually satisfactory conditions. For we recognize that by helping others resolve their energy problems, we help resolve our own.

Let me indicate some of the ways in which we are prepared to work with others to meet our common energy needs:

We have joined other industrial nations in agreeing to establish a provisional international technology group which will recommend ways to broaden international participation in the commercial development of alternative fuels.

I pledged last year that the United States would do more to mobilize its technical talents in behalf of the development of others. I am pleased to report that next month we will establish an Institute for Scientific and Technological Cooperation. This Institute will work for the goals set by the U.N. Conference on Science and Technology for Development. It will help the people of developing nations benefit from our technologies—and help them expand their own technological capacities. The Institute's policy council will include experts from developing nations. Energy development will be among its highest priorities.

We will participate actively in preparations for the 1981 World Conference on New and Renewable Energy.

At the recent economic summit conference, the World Bank was invited to take the lead in coordinating our assistance to developing nations in the field of energy. We suggest that the World Bank bring together a group of experts to review the question of energy research, development, and training in detail. Specifically, it could evaluate the work of existing energy research and training centers, both national and international, in developing countries. In addition, it could recommend how current institutions could be strengthened and whether new multilateral ones should be created.

We are supporting expansion of the World Bank's program for exploration and development of mineral fuels.

The Bank is also considering whether local programs of development finance are adequate to support the rapid application of solar, small hydro, and other renewable energy technologies in developing nations.

The Inter-American Development Bank has proposed creation of a facility to provide political risk insurance and loan guarantees for private investment in energy and minerals projects in its region. This could be an effective means of stimulating energy development there. We are willing to pursue with the Bank its initiative and work with other countries to develop an acceptable proposal.

As the industrial countries make serious efforts to restrict oil demand and to help the developing countries meet their energy challenges, the question increasingly becomes whether the oil producing nations are prepared to stabilize prices and, to the extent it is within their control, insure adequate supplies. A failure to do so will continue to have harsh consequences for the world economy, especially the poorer nations.

We understand the natural desire of oil exporting nations to husband this valuable resource for future generations. And we accept the fact that oil prices must reflect not only the strength of demand but also the long-term scarcity of supply—so long as scarcity is never contrived to manipulate price.

But oil producers must understand that there is a limit to what the economies of the oil consuming nations, and the global economy, can sustain. We must all proceed with a responsible recognition that our national energy decisions will have profound global effects—and will return either to haunt or to help their makers.

COMMITMENT TO HUMAN WELFARE

A third common responsibility is an intensified commitment to help improve the lives of our fellow human beings—to provide the necessities of life, to afford the chance to progress, to assure a voice in decisions which will determine their future.

HUMAN RIGHTS

We have made progress in the field of human rights, but we must do more.

In the past year, some nations have taken steps to restore legal protections and democratic institutions. And we have seen the inauguration of an Inter-American Court of Human Rights, the OAU's [Organization of African Unity] forceful call for the creation of regional human rights institutions on the continent of Africa, and the activation of UNESCO's (U.N. Educational, Scientific and Cultural Organization) human rights procedures.

The growing concern for human rights is undeniable. Yet the sad truth is that even as we sit here today, men and women face torture, death, and oppression for daring to exercise rights set forth in the charter of this body three decades ago. Our joint challenge is to advance the aspirations of all peoples for individual human dignity.

Our commitment must be to economic as well as political and social rights—for all are indispensable to human dignity. Improvements in economic well-being, opportunities for participation in the political process, and a growing sense of both economic and political equity can do much to defuse the grievances which can lead to national convulsions and international tensions.

Food and population

To meet this commitment to a better life for all peoples, we must each strive to move the North-South dialogue beyond grand themes and on to specific cases—to priority areas in which practical development goals can be met. Let me discuss in this connection our efforts toward a goal we should adopt as a matter of simple humanity: that by the end of this century, no person on this bountiful earth should have to go hungry.

Last year, I noted that we must not be lulled by good weather and plentiful harvests into losing our sense of urgency. Since then, poor harvests in a number of countries have substantially increased the international demand for food. This situation underscores the need to accumulate adequate stocks to support world food security. I assure you

that the United States will do all it can to prevent a global food crisis.

The American harvest this year will be of record size. We have removed all restrictions on wheat production for next year. We have established farmer-owned grain reserves which—through accumulation and release of stocks—have helped stabilize supplies.

An International Wheat Agreement still eludes our grasp. We should not abandon this goal. But we should move immediately to complete negotiations for a new Food Aid Convention. The World Food Council has urged an agreement by mid-1980. We support that recommendation. In the meantime, we are already implementing the higher food aid pledge the convention would entail.

At the same time, major emphasis must be placed on improving global food production. Over half of American direct development aid now is devoted to agriculture. We will continue working to improve the yields of major food crops, to preserve croplands, and to expand research on ways to increase production of traditional and new crops, especially those grown by poor farmers.

These efforts have received effective support from the international agricultural research centers. We support proposals to double the resources contributed to those centers and intend to increase our contribution. We hope additional countries will become contributors. We must be aware, however, that in the long run these efforts could be vitiated if the world's population is not slowed. Half the couples of child-bearing age still do not have adequate access to family planning services. We must strive to make family planning services, along with other elements of basic health care, adequate food supplies, and clean water, available to all as rapidly as we can.

And in the short run, we must be prepared to meet emergency needs wherever famine afflicts humanity or refugees seek haven—in Africa, in Latin America, in Southeast Asia, or elsewhere.

Refugees

The proposal made by Vice President Mondale at Geneva for a refugee resettlement fund reflects our belief that the international community should deal on a global basis with a global and grave refugee crisis. We urge broad participation in this fund.

Vigorous and large-scale international action is required to bring relief to the starving in Kampuchea, now facing one of the great human tragedies of modern times. Tens of thousands of sick and hungry Khmer are already pressing on Thailand's border. Hundreds of thousands may soon follow them. Even more widespread famine and disease are in prospect, especially in view of recent reports of intensified fighting. To avert unthinkable catastrophe, an international program of humanitarian relief must be established in Kampuchea as soon as possible. International organizations must be able to bring a coordinated, massive, and adequately monitored program of emergency relief to all needy Khmer. We would endorse such an effort.

As the food crisis in Kampuchea promises both to multiply the flow of refugees and to take a terrible toll among those who cannot escape. The flood of refugees from Vietnam, Laos, and Kampuchea already has brought great suffering to hundreds of thousands of innocent people as well as heavy burdens on countries of first asylum.

The international community has begun to respond. But humanitarian steps are not enough. The community of nations must make a more active effort to restore peace to the region and to resolve by nonmilitary means the problems that developments in Indochina have carried in their wake. They pose a threat to the stability of the region as a whole.

DEMANDS FOR GLOBAL RESPONSES

I believe we can meet the challenges before us. But let us not misjudge their magnitude. Resolution of regional disputes and placing new limits on the instruments of war will require new acts of national and international will. The 1980's could portend a prolonged energy crisis. It could be a decade of widespread famine. Unless the swelling deficits of developing countries can be managed, many of their economies may stagnate; some could be threatened with collapse.

Global problems like these demand global responses.

This Assembly will decide whether to launch a new round of negotiations on economic cooperation for development. Let me state today that the United States would participate, in the Committee of the Whole, in consultations to decide the most effective way of conducting such negotiations.

If new global negotiations are to succeed, their participants must be realistic about the political and economic capabilities of each other. We must assign priority to those issues on which concrete results are possible. And we should avoid duplicating the work of existing institutions. In this way, the negotiations could help build a global consensus for action.

Many of the issues I have addressed are already prominent on the agenda of the United Nations. The need for cooperation in addressing them requires that we continue to strengthen this institution. Financial, procedural, and management reforms are urgently necessary. As a first step, we urge that the Secretary General's recommendations, now adopted by this Assembly, be fully implemented.

The urgency of the requirements I have described calls for something more on the part of all members of the United Nations.

The distinctions between North and South, like those between East and West, reflect differing interests. They have a role in defining the issues and in clarifying our choices. But we must commit ourselves to finding areas where our interests converge.

Each of us has our special values to be nurtured, our particular goals to be served. I do not suggest it can or should be otherwise. The United States believes in a world of diversity. But let us resolve here, at this Assembly, to find in our common needs and common humanity a renewed dedication to the search for common ground.●

STATE ALLOCATION FORMULA FOR UNIVERSITY COMMUNITY SERVICES AND CONTINUING EDUCATION PROGRAM

● Mr. MAGNUSON. Mr. President, I support H.R. 5386 which will correct some problems we are having with the State allocation formula for the university community services and continuing education program. This is also known as title I of the Higher Education Act.

The fiscal year 1980 Labor-HEW appropriations bill contains $10 million for this program. This amount is not adequate to fund the so-called hold-harmless payments to small States. Since the current allocation formula would be based strictly on population, a $10 million appropriation would cause 28 of our smaller States to receive large reductions in their allocations from the Office of Education.

H.R. 5386 changes the formula so that each State allocation will be reduced proportionally from its 1979 allocation when the appropriation was $16 million. I am glad to see this bill moving through Congress. The authorizing committees are to be congratulated for their speedy action to correct this problem. The bill will provide equitable treatment for all States and will alleviate a problem created by a reduced appropriation in the fiscal 1980 Labor-HEW appropriations bill.●

CARL POHLAD: BANKER

Mr. McGOVERN. Mr. President, the current issue of Forbes magazine carries a stimulating article about a friend of mine, Carl R. Pohlad, president of the Marquette National Bank in Minneapolis.

The article traces his climb to success in financial and business ventures, underscoring his basic concern for personal considerations in his dealings with others while adhering to the rules.

I ask that the following article, "The Banker Who Likes Poor Risks," from the October 29 issue of Forbes, be printed in the RECORD.

The article follows:

THE BANKER WHO LIKES POOR RISKS

(By Sharon Reier and Alyssa A. Lappen)

Getting mixed up in the businesses he lends money to is about the last thing your average banker wants. He's a banker, not a . . . well, a whatever.

But just about every rule in business can be turned upside down with a certain amount of success: President Carl R. Pohlad of Minneapolis' Marquette National Bank (assets $300 million) is evidence of that. From his tersely furnished offices in Minneapolis' I.D.S. Center, Pohlad seems to have used banking as an acquisition tool until he now controls an estimated $1 billion (assets) business empire. Its parts include a string of Pepsi, Dr. Pepper and 7-Up franchises from Wisconsin to Tulsa to Salt Lake City; a host of small- and medium-size banks across the northern Midwest from Illinois to Montana; a bus company (ultimately to be bought out) serving 42 Chicago suburbs. There's a mail-order small-loan company that lends money primarily to teachers at rates of up to 33%; and a Minnesota wholesale wine distributing company. Top it off with an 8% interest in a Florida real estate investment trust with over $110 million in assets.

Pohlad got into these businesses by channeling money into exactly those situations most of his peers would avoid—"distressed merchandise," in the words of another Minneapolis banker. This rival banker respects Pohlad but does not admire him. Half in awe, half in disapproval, he says: "Pohlad waits very patiently until you're just coming up for air the last time, and then says, 'I'll save you,' and insists that you do what he tells you and pretty quickly turns you around and makes money. Then once he gets through cleaning house and getting a profitable business going, he will sell it off or make money in some way."

Adds another, more disapproving Minneapolis banker who prefers not to deal with Pohlad: "I see maybe a dozen deals a month where there are people in trouble, where I could make those kinds of loans and take control. Any banker does. The loans aren't primary. It's a way of obtaining a company. That's not what banking is supposed to be about."

The subject of this controversy, the Iowa-born Pohlad, is a young-looking 63-year-old who admits to "majoring in football" at Spokane's Gonzaga University and got into banking in a characteristically unusual way. He

didn't marry a bank president's daughter, but his sister married a big-time banker—specifically Russel L. Stotesbery, president of the Marquette National Bank of Minneapolis. The brother-in-law brought Pohlad from the Dubuque-based finance company where he had been working and put him in Marquette's correspondent department. When Stotesbery died of a heart attack in 1955, the sister, then holding the controlling stock in Marquette, voted her brother in as president.

Pohlad's travels as a correspondent banker had given him a pretty good idea of which local bankers were in trouble, and he was able to act upon it. A fellow Minnesota banker says, almost wistfully, "Those were the days you could go out and buy a bank like you could go out and buy a car." As most people buy cars on credit, so Pohlad bought his banks on credit. His shares in his holding company, Bank Shares Inc.—which owns Marquette and four other banks—are 72% leveraged. That probably helped him pick up 30-odd, mostly troubled banks, some of which he has sold. Borrowing on his banks' corresponding balances also helped with acquisitions. Pohlad, asked about those days, says with quiet satisfaction: "We made investments in a number of troubled banks and they have all worked out very well." The holding company is not traded because it is 97 percent family-owned.

Even when they sniff at his methods, fellow bankers do concede that Pohlad keeps well within the limits of the law. Says one, perhaps enviously: "Carl understands all the angles, but he's not going to use any that would get him in trouble with the regulatory bodies. You've got to give the devil his due. He plays according to the rules. He's an able, shrewd, careful guy. He doesn't walk into a cave. He makes sure it's a tunnel, and that he knows how to get out."

Adds a small-town banker who managed one of Pohlad's banks: "He never took any extra dividends out. He never asked us to finance any of his ventures. He never asked for a $20,000 consulting fee. He just said, 'Keep a clean bank.' In the five years he owned my bank he flew in twice. He was too busy with his other deals."

There were plenty of deals to be busy with, including a deal which left him for a time with a controlling interest in a good-size airline and a major Las Vegas convention hotel. After establishing himself as a banker, in 1959 Pohlad bought into the publicly traded (NYSE) Minneapolis surface transit company after it had been converted from trolleys to buses and had reportedly been looted by former managers. The bus company was converted into a holding company, Minneapolis Enterprises Inc. and later changed its name to MEI Corp.; it is now one of Pohlad's major ownership vehicles. The bus operation was soon restored to profitability and the profits were reportedly lent interest-free to MEI, which acquired the Chicago-area West Towns Bus Co. and about 50 percent of what is now called Texas International Airlines Inc. Pohlad then managed to have TIA buy Las Vegas' Tropicana Hotel.

"The whole purpose of TIA buying up the Tropicana," says Pohlad, "was to consolidate tax returns, because an airline has a lot of depreciation and investment credit." He was optimistic in assuming that the Tropicana would have profits to offset those credits. It didn't. About that time in the early 1970s the stock market was going down the tube, and Las Vegas was experiencing a slowdown. Pohlad exited quickly by selling the Tropicana to his former friend, Minnesota banker Dell Gustafson.

Out of Las Vegas, Pohlad pushed MEI systematically into soft-drink bottling, incorporating his own soft-drink bottling holdings into the Big Board company. The result is an outfit with 1978 sales of $209 million, a current market value of $108 million and a respectable 20 percent five-year return on equity. Pohlad owns a controlling 25 percent of MEI personally, the family a bit more.

"I got into bottling 16 years ago," says Pohlad. "Now it's an excellent investment, but 16 years ago many people didn't think that way." For his bottlers Pohlad paid in some cases little more than net asset value, rather than the big premiums that 20th Century-Fox, Liggett and Philip Morris paid recently.

He also foresaw the recent craze for investing in life insurance companies. Believing that "the money business had a great future," he listened sympathetically when approached in 1973 by Richard H. Headlee, who had just become chief of Michigan-headquartered Hamilton International Corp. That outfit was then beset by stockholders' suits and a takeover attempt. "I personally directed $3.5 million into Hamilton," says Pohlad. In return he got about 27 percent of the voting stock, and he sent a team of troubleshooters to help the ailing firm.

It was not life insurance as such that appealed to Pohlad, apparently, but tax breaks and the pool of capital that life insurance commands. Under Pohlad, Hamilton bought a St. Louis bottler, and looked into buying a liquor distributorship, a restaurant chain and a California-based chain of movie houses. That didn't sit too well with the life insurance types at Hamilton. Headlee puts it delicately: "MEI was a little go-go. We weren't certain they fit with our style."

So when Pohlad showed signs of wanting to sell Hamilton, Headlee insisted that he do so despite some wavering in the middle of negotiating a sale to Household Finance Corp. Pohlad then bought back the bottler for $5.2 million and realized $140,000 on the Hamilton stock. "He didn't want the publicity of a proxy fight," comments Headlee. Pohlad's view? "We never look back."

Looking ahead, there is MEI's interest in Diversified Mortgage Investors Inc., a REIT with a $55 million tax loss carryforward. "The trick," says Pohlad, "is to find some way to use that, and hopefully we'll be able to assist them." But probably not in bottling; he feels it's too costly today. Pohlad talks about snack food distribution; it would dovetail with his current bottling distribution network. That's a field where there is still "distressed merchandise" around, and distressed merchandise is Carl Pohlad's forte. He's not your conventional banker but he's a mighty smart businessman.

VIEW FROM TAIWAN OF UNITED STATES-TAIWAN RELATIONS

● Mr. GOLDWATER. Mr. President, it has been almost 10 months since President Carter announced several radical changes in relations between the United States and the Republic of China on Taiwan. No thanks to the Carter administration, and with much thanks to the American people and the support of Congress, Taiwan has survived these changes to date.

Only the future can tell what will happen to freedom and the safety of 18 million people in the Republic of China. Is the Carter administration still bent on reducing Taiwan to the status of a mere province of the totalitarian regime run by the Communists on the Chinese mainland? Or, will Taiwan be recognized for what it is, a truly independent and sovereign nation administered by its own governmental authorities?

Will the representatives of Taiwan residing in the United States be provided adequate protection, privileges, and immunities which are due to the personnel of another nation? Will the administration end its moratorium on new arms sales to Taiwan and provide our ally with the kind of advanced, defensive equipment necessary to protect the security of the free Chinese people in the years ahead?

And, will the State Department insist on replacing our existing civil aviation agreement with Taiwan with a so-called unofficial, informal arrangement of some sort that virtually diminishes the international status of Taiwan to a nonentity?

Mr. President, the real answer to these questions is given in the Taiwan Relations Act, which stands as the authoritative statement by law of U.S. policy toward Taiwan. This law, signed by President Carter on April 10, expressly preserves the status of all treaties and agreements with Taiwan as continuing in force. It specifically provides, as the law of the land, that Taiwan is a separate nation fully to the same extent as if we maintained official diplomatic relations with her. It also restores, at least partially, the traditional security commitments of the United States to free China.

Mr. President, these points are well expressed in a series of recent editorials printed by the China News, which is published daily in Taipei. Because these editorials are well reasoned and even profound and because they give the view from Taiwan of how the new U.S. relationship with free China is evolving, I ask that the editorials be printed in the RECORD.

The editorials follow:

[From the China News, Aug. 31, 1979]

TAIWAN IS NOT FOR GIVING

Red China turned out a lot of people to greet Vice President Mondale in Sian and then claimed it was the biggest Chinese welcome ever for an American.

That is to be doubted. The greeting to President Dwight D. Eisenhower at Taipei in 1960 was bigger—and sincere.

The simple truth is that the Chinese Communists could turn out the whole population of the mainland, if they wished.

These are not welcomes but demonstrations given by the numbers—an exercise in regimentation.

We don't think the American people will be deceived but cannot help but wonder about the U.S. government.

Mr. Mondale talked a lot about friendship, new beginnings and cooperation for peace.

He said, for example, that "the unprecedented and friendly relations among (Red) China, Japan and the United States bring international stability to Northeast Asia."

If the Carter administration really believes this, it is a confession of amazing naivete.

Red China has never made a contribution to peace and has no intention of making one.

To the south, the Chinese Communists talk of teaching Vietnam another lesson. To the east, they threaten to cross the Taiwan Straits and impose their tyranny on this island. To the north and west, they would blast the Soviet Union out of existence with nuclear missiles, if they could.

Nowhere in the world is Red China bent on peace. There is no stability in East Asia precisely because of the existence of Chinese Communism.

No one will deny that the Soviet Union is a problem in East Asia, but the Russians are not engaged in aggression. Only the Chinese Communists are aggressing now—di-

rectly in some cases and through surrogates in such countries as Indonesia, the Philippines, Malaysia, Thailand and Burma.

The Carter administration supposedly has cosied up to Red China in order to play off nearly a billion people against the USSR and in the hope of selling a bottle of Coke to each of them.

This doesn't make much sense. Against Vietnam, the Chinese Communist forces bogged down and were compelled to withdraw. The only lesson involved their own weakness.

As for the Chinese mainland market, only foreigners can buy the coke, American cigarettes and most other foreign products.

Red China is interested in acquiring weapons and machinery—on credit at that. Buying power is measured at the level of 2 or 3 billion dollars and not the 300 to 600 billion of which the Chinese Communists have talked.

The American people are aware that the Chinese Communists are not their friends.

They have not forgotten the Korean War, in which Red China was the principal antagonist of the United States and the United Nations.

They have not forgotten the Vietnam War, in which Red China supplied manpower as well as weapons to kill Americans.

Vice President Mondale says that the United States is the friend of Red China and that it would react strongly if the Russians marched on Peiping.

Most Americans would view the thought of fighting for the Chinese Communists with abhorrence. We do not believe they would do so.

Nations and their leaders say a lot of foolish things in pursuit of international protocol and phony friendship.

This is the oratory of foreign affairs. It doesn't mean much, and both sides know it.

When the chips are down, countries follow their own interests. The interests of the United States do not coincide with those of Red China.

It is revealing that the Chinese Communists have not reciprocated Mondale's love feast toasts.

This is not because the Chinese Communists have any objection to lying. Rather, it is because they have the unfinished business of Taiwan to take care of and wish to retain a tough stance in order to frighten the Carter administration and the American people as much as possible.

Nominally, we should not be disturbed at what Vice President Mondale has been saying. It could be dismissed as ornate prose addressed only to his hosts.

But we must stop and consider that the Republic of China continues to need the help and the friendship of the United States to maintain its place in the world and augment its defenses.

This year we have not negotiated with the United States for defensive armaments. President Carter took it upon himself to promise there would be no weapons talks with the ROC in 1979.

As of January 1, the ban is off. We shall return to the conference table to ask for the further modernization of our weapons systems.

While on the mainland, Mr. Mondale has spoken of defensive weapons for Taiwan in limited quantities. Is he trying to tell us something? Is he trying to tell the Chinese Communists that in time the military forces of the Republic of China may not be such a tough antagonist?

Above all, is the vice president of the United States trying to imply that the Carter administration would be willing to help Red China obtain possession of the province of Taiwan?

That is hard to believe. Yet it seems strange that the second ranking leader of the Carter administration should say some of the things he has during this visit. He has offered almost everything the United States can give. Is it possible that Taiwan is not on the silver platter only because the United States does not have the power to hand us over?

These are not things we like to say. The United States remains our friend and, we still believe, our chief ally. The American people are not in sympathy with any policies or actions which would jeopardize the free existence of the Republic of China on Taiwan.

However, Americans need to face up to the implications of what Vice President Mondale seems to have in mind. They may wish to make it clear to the Carter administration that the Taiwan Relations Act means exactly what it says in pledging that the United States has a stake in the ROC-Taiwan future.

[From the China News, Sept. 11, 1979]

STATE OF ROC DEFENSES

Defense is much on the minds of the people and government of the Republic of China these days.

The Chinese Communists have not modified their aggressive intentions. They still insist that if we don't surrender, they will attempt to invade Taiwan.

Our continuing freedom depends on strong defenses.

By unilateral decision of President Carter, the Mutual Defense Treaty between the United States and the Republic of China will be terminated as of next January 1.

The Congress and President Carter have joined in saying that the continuing freedom of the people of Taiwan is of great concern to the United States.

This is not, however, a legal commitment in the sense of the Mutual Defense Treaty.

The United States could decide that a life under Communism would contribute to the freedom of our people.

Expressions of "concern" and promises of money and weapons didn't help the people of South Vietnam survive in freedom.

The Taiwan Relations Act pledges that the United States will continue to sell defensive weapons to the Republic of China.

Nothing is said about the quantity of such armaments, but the presumption is that it will be sufficient to keep the Communists at bay.

Recently, Americans have been talking about the supply of "limited defensive weapons." Vice President Walter Mondale imposed the restriction of "limitation" when he mentioned defense aid to the Republic of China in Peiping.

The limit the Chinese Communists seek is that of zero—no weapons at all from the United States to the Republic of China.

Considering the Carter administration's drive to appease Red China, this is a little frightening.

For the year of 1979, the Republic of China has been unable to negotiate with the United States for the sale of weapons. This proscription was a part of President Carter's recognition deal with the Chinese Communists.

Deliveries of weapons in the pipeline have continued. We have also been able to buy some armaments from countries other than the United States.

A foreign correspondent who visited Taiwan recently said the Republic of China is buying nearly US$700 million worth of weapons abroad this year, including only US$13 million worth from the United States.

Still, most purchases from countries other than the United States require U.S. approval.

Clearly, the defense relationship with the United States is of paramount importance—not only in terms of improved weaponry but also to assure parts for old ones.

Members of the Congress, correspondents and commentators have urged the Carter administration to continue selling weapons to the Republic of China after expiration of the defense treaty.

Why should such admonitions be necessary? The Taiwan Relations Act obliges the United States to make such sales. American public opinion supports these sales.

The "limitation" concept may provide a clue to the future of our U.S. defense relationship. The Carter administration has already declined to give us the fighter planes we requested and need. There even has been hesitation about improving the F5Es that we make here in cooperation with Northrop of the United States.

Limitation could easily equate with inadequacy.

Our only enemy is pledged to a program of military modernization.

Chinese Communist industrial modernization has come a cropper, but this does not affect plans of the militarists.

Most of Red China's new weapons will come from abroad. The United States has thus far declined to sell weapons to Peiping, but some Americans would like to reverse that decision.

Chinese Communist military men have been in France, Germany, Italy, Belgium and Britain looking at armaments. The compulsion to buy has been greatly strengthened by the failure of the war effort against Vietnam.

The International Institute for Strategic Studies of London recently said Red China has 8000-mile missiles ready for test firing into the Indian or Pacific Ocean.

Some 3000-mile missiles have been deployed. Nuclear warheads are estimated at several hundred.

Our people approve the government's decision not to develop nuclear weapons. At the same time, there can be no doubt that without the nuclear umbrella of the United States to protect us, the Republic of China is vulnerable. We must count not on Communist humanitarianism, but on the ambition of the Chinese Communists to take over intact the "bigger than Shanghai" industrial capability that we have created in Taiwan.

The Republic of China's defense industry has made considerable progress.

We have one short-range missile and a new ground-support aircraft. Research, development and manufacture are receiving top priority from government and industry.

Maybe in a decade or so, we can be self-sufficient in weapons. It is a goal worth pursuing; it could be the difference between life and death.

Meanwhile, the dependence on the United States cannot be waived or limited drastically.

Our weapons systems are those of the United States. Changes will have to be made slowly.

Preparations should be started now for the reopening of arms purchase talks with the United States at the outset of 1980. American intentions and limitations, if any, need to be learned as quickly as possible.

This is not only a matter of seeking weapons elsewhere, and building as many of our own as we can, but also of rallying the American people and our many friends in the legislative branch of government to support the right of self-defense we have been promised.

U.S. governments of the last few years have hurt the Republic of China. We have survived and waxed stronger primarily because of the friendship of the Congress and the American people.

We don't ask that we be given the tools to do the job, as was the case when we fought with and for the United States in World War II.

We ask only that the United States sell us the weapons to assure our survival and peace

in this part of the world. The American people fortunately recognize that a strong and not a weak Republic of China is their best assurance of staying out of war in East Asia and the Western Pacific.

[From the China News, Sept. 14, 1979]

STATE OF U.S. RELATIONS

Some of our best American friends think the United States should not have been allowed to pretend that we did not exist while continuing relations with the Republic of China on U.S. terms.

While agreeing with this in principle, our government thought it was necessary to be "realistic."

The Republic of China made its position clear but allowed the United States to have its cake and eat it, too.

The Carter administration got the formal relationship with Red China it wanted and at the same time continued to enjoy full benefits from what it described as the unofficial relationship with the people of Taiwan.

President Chiang Ching-kuo made no bones about saying that the United States had betrayed us. Yet we found it necessary to remain on friendly terms with our betrayers.

Possibly this was necessary. There was a lot at stake, and we were trying to protect our own interests.

The decision was based on belief that this was a one-time betrayal, and that the United States would keep its new promises to the Republic of China (or at least to the people of Taiwan).

Now we are beginning to have some doubts about the intentions of the present U.S. administration.

Attention has been called to two developments: the Carter administration's stipulation that the defensive weapons promised us will have to be "limited" in quantity and the contention that the aviation agreement between the United States and the Republic of China must be scrapped and replaced with an unofficial agreement—whatever that means.

In fact, by U.S. definition all relationships between the United States and the Republic of China are now "unofficial."

That is merely a pretense to appease the Chinese Communists. As so clearly indicated in the Taiwan Relations Act, the obligations of the United States remain the same. There is no definitive change except that President Carter has given notice of terminating the Mutual Defense Treaty as of the end of this year.

The Taiwan Relations Act extends all treaties and agreements between the two countries and makes them just as binding as before. That is what the Congress was told and what the Congress expected.

Now Vice President Mondale is saying that if the Carter administration wishes to change the aviation agreement, it will do so. A member of the State Department has said that a new accord could be more advantageous to the Republic of China than the old one.

This country is being told that the United States will define the ongoing relationship with "Taiwan" as it pleases, that there is nothing we can do about it, and that we had better take it or leave it.

Questioning of this procedure has been started by Robert Parker, the president of the American Chamber of Commerce in the Republic of China.

Mr. Parker is our friend but does not have a closed mind on the China problem. He was one of the American Chamber presidents in Asia who went to Red China to see Vice President Mondale.

As he points out, if the Carter administration can change the aviation agreement at will, it can scrap or alter any of nearly 60 other treaties and accords unilaterally and without consultation.

This is completely unacceptable.

If the Carter administration is going to regard the Taiwan Relations Act as a document for presidential interpretation, we had better announce we do not accept the terms of the legislation and that we, too, will follow the dictates of self-interest.

We have humbled and hurt ourselves enough. We never accepted the "unofficiality" of the U.S. relationship but went along with the effects. We have allowed the United States to do as it pleased, to ride roughshod over our feelings, our pride and our economic and social interests.

The Republic of China does not believe its friendship with the American people and the Congress of the United States can be destroyed.

At the same time, we are compelled to wonder if any real friendship exists with the functionaries of the Carter administration.

Some people tell us we should not bite off our nose to spite our face, and that we are helpless against the mighty United States. If we don't knuckle under, the Communists will come and get us.

We do not accept this interpretation. Many Americans are going to protest against the treatment the Carter administration is handing us. Others in the world are of the view that the United States has treated us shabbily.

It is also said that we are helpless, bound to the United States by military dependence and we dare do nothing.

That is likewise unacceptable. Ours is a nation with nearly 18 million people under its control. We have sizable and strong armed forces. We are one of the strongest small economic powers in the world.

Most important of all, we have right and principle on our side. We have been kicked around by a great power which was once our friend.

If the Carter administration wishes to regard us as a football, it might find that the ball had blown up in its face.

We are not without options and maneuvering room. As for durability, the Republic of China has shown in the three difficult Taiwan decades that it has staying power.

This is a time to let the Carter administration know that if it is not prepared to keep assurances made to the "people of Taiwan," we have no intention of lying down like a rug to be walked over.

These are strong words, but they are backed by a strong intention. The Taiwan Relations Act was signed into law just a few months ago. Congress wrote and passed the legislation but the final approval was President Carter's.

He has the power to demand that his functionaries adhere to the letter of the document that bears his signature.

We ask him to do so. If he doesn't, let the chips fall where they may. We think the U.S. Congress will pick them up and insist that Mr. Carter keep the promises that senators and representatives made and he accepted.

The aviation treaty and the continuing supply of U.S. defensive weapons are tests. If the United States is not going to respect these commitments, the Taiwan Relations Act isn't worth the paper on which it is written and the U.S. relationship already requires redefinition.●

THE NATION SHOULD HEED SENATOR BYRD'S CALL FOR RATIONALITY AND REALISM ON SALT AND CUBA

● Mr. McGOVERN. Mr. President, as we prepare to hear President Carter's remarks this evening on the American response to the Soviet troop presence in Cuba, we should heed the remarks of our distinguished colleague and majority leader, Senator ROBERT BYRD, on the relation between SALT and the Soviet troops. I know of no finer statement on this issue which has been made. Last week, a newspaper column reported Senator BYRD's appreciation for my remarks on Cuba and SALT. I am glad to know that we have come out with almost precisely the same position. We both agree that the crucial question on SALT is: Does this particular SALT II treaty improve American security and help pave the way for genuine arms reductions? And we both agree that the troop issue is not a test of challenge by the Soviet Union. Instead, it is a foreign policy problem which has been overblown. The symbolism of the troop issue no longer bears any rational relation to the real capabilities or history of the Soviet facilities in Cuba. I agree with Senator BYRD's characterization of this as a "pseudo-crisis." I hope President Carter this evening will follow the steady course and sense of perspective recommended in such a compelling manner by Senator BYRD.

Mr. President, I want to recommend Senator BYRD's statement from this morning's Washington Post to all of my colleagues, and ask to print it in the RECORD for that purpose.

The article follows:

SALT AND A "PSEUDO-CRISIS"

(By ROBERT C. BYRD)

We should not permit political myopia to obscure our wider vision of U.S. national interests in the field of central strategic nuclear systems—which is what the SALT II treaty is all about. The stakes—establishment of limitations on strategic nuclear weapons—are higher and far more vital to our national security than is the peripheral issue of 2,000 to 3,000 Soviet troops in Cuba.

As Senate committees near the completion of their consideration of the treaty, we find ourselves focusing not on this issue of momentous significance to our national security and our leadership in the world, but rather on a matter unrelated to, and far less significant than, the treaty.

There has been a regrettable tendency to lose sight of the larger issue in an atmosphere of near-hysteria over the question of Soviet troops in Cuba. Let me state unequivocally that I am not sympathetic to the presence of Soviet troops in Cuba. But we should not lose all sense of perspective. We need to take a step back, examine the matter in a broader context and recognize how much is involved here and what is actually at stake.

First, we should study the treaty itself, and the hearings conducted by the Senate Foreign Relations, Armed Services and Intelligence committees. Those hearings have been very thorough and valuable. I have read through the transcripts of all the hearings. I believe that a careful reading may lead others to conclude that the treaty can be a modest but important step forward, a positive contribution to our national security. I have not yet reached a final judgment of my own position on the treaty. I want to complete my review of the recent report of the Senate Intelligence Committee on the important issue of verification before reaching that judgment.

By August, the treaty had emerged from the Foreign Relations and Armed Services hearings in relatively good shape, and prospects for Senate approval looked good—with the addition of certain reservations and understandings to the Resolution of Ratifica-

tion. The hearings dealt not only with the specific elements of the treaty, but also served the useful purposes of focusing attention on the overall growing military and strategic imbalance. The big question was not whether the treaty would be approved, but what steps should be taken, and how much funding should be provided, to proceed with the necessary modernization of our strategic and conventional forces.

But shortly before the Senate reconvened in September, the Cuban issue emerged. I have served in Congress since 1952, and in my 27 years in Washington I have witnessed a few periods of genuine crisis. It has been my belief from the beginning that the current Cuban episode is not anything near crisis proportions. From the outset, I emphasized that we needed to establish, as best we could, exactly what the situation was. It made no sense for the administration to state that "the status quo is unacceptable" until we knew precisely what the "status quo" was.

There were some who rushed forward with statements that the Soviets were "telling" us, as though this were some grave new threat with far-reaching ramifications. In fact, however, all intelligence reports thus far indicate that the Soviet troops in question probably have been in Cuba for years; indeed, they may well be a residue of the 20,000 or so Soviets who were there at the time of the 1962 missile crisis.

So this is not a "test" or "challenge" to the United States. But there were some—and the administration is not blameless in this regard—who contributed to such a perception before looking at the realities of the situation, and thus was created this "pseudocrisis" in which we became all too deeply immersed.

As a result, the treaty suddenly became subjugated to a far less important issue—not an "artificial" issue, as Andrei Gromyko claims, but not one meriting a crisis atmosphere. Certainly, the Cuban question should not overshadow the SALT II treaty—a treaty that represents the work of nearly seven years of negotiations by three administrations, Republican and Democratic. If the Senate, after careful judgment, rejects the treaty on its merits, that is one thing; but if the treaty dies either because of delay, or an unwarranted connection to the presence of a relatively small number of Soviet troops in Cuba, that is quite another thing.

Neither of these two reasons for the treaty's death would reflect well on the Senate or on the country. To effect the treaty's demise through either of these means would send uncertain signals to our allies in Europe and to the nations in the world. For the treaty to die from a sudden seizure of trembling delirium brought on by the discovery of a handful of Soviet troops in Cuba—an island on which U.S. forces are also stationed—would ill serve the image of the United States as a powerful and mature nation. Undue delay, in itself, would also lead, I feel certain, to the further entanglement of SALT in politics, particularly with next year's campaign season being only a short time ahead, and would lead to its execution on the gallows of political posturing and partisan rhetoric by candidates in both parties.

So the Senate should proceed, in a deliberate and rational way, to make its judgment. The committees have conducted their hearings in a most responsible fashion. Proponents and opponents have been heard in the committees, and there is ample time for a full-scale Senate debate later this year.

When the Senate makes that judgment, it should come down to a simple question—a question not simply answered, but still a simple question: is this treaty in the best interests of the United States? This should be the benchmark by which the Senate measures its decision. Let us not cloud the environment with a totally unrelated issue—one that is clearly not a threat to U.S. security. If the treaty is not in our own interests, it ought to be rejected. Conversely, if it is in our country's interests, then the treaty should be approved, with any appropriate reservations and understandings.

Now, it could be correctly pointed out that the United States should long ago have devised a strategy to deal with Soviet adventurism around the world. Clearly, Moscow has developed and deployed—in some cases in conjunction with Cubans—military capabilities well beyond the legitimate needs of its own territorial security. The already overdue need to develop a viable and effective strategy of dealing with Soviet adventurism, however, will not be achieved by holding the treaty hostage. After all, no one in his right mind would suggest that the treaty be ratified as a favor to the Soviet Union.

To those who advocate that Senate debate on the treaty be put off until late into next year or thereafter, the question should be addressed: what happens to our national security in the meantime? The SALT process would be stopped dead in its tracks, and the prospects for achieving significant reductions in nuclear armaments in the future, and for limiting the proliferation of nuclear weapons, would become increasingly dim. In the meantime, the Soviets, having already built considerable momentum, would be free to go ahead with the development, deployment and expansion of systems that would otherwise be prohibited under SALT II.

For example, there would be no constraint on Soviet development of the SS16 mobile intercontinental missile, which is banned under the treaty. The Soviets could proceed with no limit on fractionation—putting more than 10 warheads on an SS18 missile, for example. Under the treaty, the Soviets would be limited to 10 warheads per SS18, whereas the missile has the capacity of carrying up to 20—even 30—warheads, and this would greatly expand their offensive capacity. Moreover, instead of being limited to the production of 30 Backfire bombers per year, the Soviets could greatly increase their production rate. Further, there would be no restriction on telemetry encryption or other concealment practices, thus making our verification of Soviet missile testing, development and deployment much more difficult. Additionally, instead of being restricted to a single new-type missile, as provided in the treaty, the Soviets would be free to deploy as many new types as they choose—and they have the capability, the technology and the momentum to develop several new missiles in the near future.

Also, whereas the treaty establishes a limit of 2,250 strategic launcher systems and heavy bombers by Jan. 1, 1982, the Soviets could have 3,000 such systems by 1985. Sub-limits, likewise, would not exist and, instead of being held to 820 MIRVed land-based ICBM's, the Soviets could deploy from 1,100 to 1,300. In other words, without the treaty all caps are gone and all bets are off.

With or without SALT II, we are going to have to proceed with the strengthening of our strategic and conventional forces, as well as theater nuclear forces in Europe. But without SALT II, we face a much less predictable strategic situation and the need for much greater military spending than would be necessary with the treaty. Much of the money that is needed for building up our conventional forces would be siphoned away to match the Soviets in an uncontrolled strategic nuclear armaments race.

We must retain a sense of reason and perspective. We have to be aware of the consequences of delaying the treaty inordinately. A matter of this significance must not become a political football. The Senate deserves the opportunity to vote on the treaty. The country deserves to have the treaty judged on its merits.

The truth is that any lengthy delay in Senate consideration of SALT II effectively kills the treaty. I believe it should be debated in the Senate and stand or fall on the basis of its value to U.S. national security, and not on the basis of an issue not relevant to the treaty.

As one who voted against the 1963 Test Ban Treaty, who has voted for increased defense spending, who has sharply criticized the Soviets for adventurism and suppression of dissidents, I am constrained to say that holding the treaty hostage to 2,000–3,000 Soviet troops in Cuba—apparently long existent, but only recently identified—would be much like throwing an antique chair, brought over on the Mayflower, at a mouse that suddenly appears on the drawing room floor: the chair is reduced to splinters, but the mouse escapes untouched. In other words, we can end up with the treaty down the drain, while the Soviet troops—long in Cuba—remain there.

Let us return to a steady course and bring our best judgment to bear, in a realistic way, on the problems that confront our national security interests.●

THE NEEDS OF OUR CHILDREN

● Mr. McGOVERN. Mr. President, over the past summer months, the Daily Republic, a fine newspaper in my hometown of Mitchell, S. Dak., published in observance of the International Year of the Child, a series of excellent articles on the needs of children in our American society.

Karen Iverson, a sensitive young reporter for the paper who arranged and edited the series, explained in her introduction of the series:

> We hope adults will take a closer look at the young ones around them—their own as well as others—and will see them as little people rather than just kids, who have needs and desires that mean as much to them as those of adults do to themselves. Perhaps in some small way it can draw all of mankind just a little closer together.

The articles are written on topics of increasing importance to children's development and happiness: Nutrition, books and reading, health and medical care, recreation and play, and spiritual development. In addition, personal and heartwarming articles on the joys of motherhood and the experience of adopting a child are included. Also included are articles on the needs of handicapped children and minority children, such as the American Indian, which remind us of how far we have come but also of how far we have to go before we reach equality without reservation.

I am proud of the efforts made in my hometown of Mitchell to bring the needs of children to the public's attention. This is, after all, the purpose of the International Year of the Child. In 1976, the 31st session of the United Nations General Assembly proclaimed 1979 as the International Year of the Child, encouraging countries around the world to set aside this period of time to focus attention on the 1½ billion children who populate our planet.

Mr. President, I request that this series of articles be printed in the RECORD so that my colleagues can be reminded of the importance of providing for our Nation's children.

The articles follow:

A CHILD HAS THE RIGHT TO SPECIAL CARE, IF HANDICAPPED

[July 2, 1979]

(Jan Baltzer, Right-to-Read program coordinator)

Learning to read, acquiring the skills enabling a person to read is a big achievement. But once those skills are acquired, one must want to read to truly know the joy and pleasure it can bring.

The challenge facing us as parents and educators is how to teach reading without squeezing out the joy. Why should we care whether children read or not, as long as they are ABLE to read? Because for a skill to be maintained it must be practiced and because reading increases one's understanding and knowledge of the world.

Because nearly half of a child's intellectual development occurs before he enters formal schooling, parents are important teachers. Parents are the first and most important teachers a child will ever have. Listen to your child, speak with him, and most importantly read to and with him. Only when a good model is supplied will a child realize the full joy of reading.

[July 16, 1979]

(By Carla Scott, Registered Dietitian, St. Joseph Hospital)

Good nutrition is one of the chief elements of good health. In this Year of the Child we should each take time to examine the nutritional rights of children and how those rights are to be protected.

Long before the child has any say, its nutritional health is being determined. A woman planning to bear children has the responsibility to make the proper nutritional choices both before and during pregnancy. The poor nutrition, smoking, heavy drinking of the mother, all affect the unborn child. Mothers should be encouraged to breast feed or at least use a physician approved formula. They should not be over anxious to wean their infant to cows milk nor to introduce solids too early.

While the Mother's responsibility—with regard to the nourishment of the unborn child—is greater, the Father's role is at the very least supportive. It is a joint parental responsibility to plan family meals and snacks to help the child develop good eating habits. Eating habits are developed early. Children are born without food prejudices. Each day new eating habits are formed that may continue into adulthood. Helping children develop good eating habits is easier than changing bad ones.

Educators and medical professionals play an extremely important role in teaching proper nutrition and directing the nutritional choice of parents and child.

Food producers, food processors, and food regulatory agencies are responsible for supplying the child with quality foods that are not overprocessed, are free of harmful pesticide residues and additives, and are not laden with excessive sugar, fats, and salt. Advertisers should appropriately control their advertisements affecting children's choices of foods.

The greatest responsibility for protecting the nutritional rights of the child belongs to society, to us all. Social pressures, peer pressure and tradition greatly affect food choices and habits. We all need to work toward developing social attitudes that favor good nutrition. For example, it should be socially acceptable for a child to bring apples to school instead of candy for a birthday treat, and it should be socially acceptable to fill school vending machines with fruit and fruit juice instead of candy and pop.

We can help our children make proper nutritional choices by teaching them good nutrition and then make them feel good about themselves when they make the right choices.

[Aug. 6, 1979]

(By Rev. Glenn Ellis)

Whosoever therefore shall humble himself as this little child, the same is greatest in the kingdom of heaven. And whosoever shall receive one such little child in my name, receiveth me. (Matthew 18:4–5).

A painting entitled "His Majesty, The King" does not show any shining crown or royal robes, yet its subject tugs at the heart and captures the imagination of the mind. The painting is a picture of a small boy crossing the street on his way home from school. A policeman stands in the intersection holding the traffic with his upraised hand. The implication is clear. No one would deny that even the youngest infant is "king" in the hearts of his parents.

"Children are on the march," wrote Dr Louis Evans. They march into our lives, our homes, our Sunday Schools. They change our plans, influence our aspirations and ambitions, they consume our thoughts and plumb the very depths of our emotions. Indeed, they change our whole lives.

Our generation will inevitably pass. We will have to lay down our places of leadership to our children whether we have completed our God-given tasks or not. They will then teach our Sunday School classes, direct our choirs, fill our pulpits, and enter into our halls of government—all too soon for us.

Sometimes we are tempted to say, "Oh, there is plenty of time." Is there? Horace Bushnell, in his book Christian Nurture, warns: "Let every Christian father and mother understand, when their child is three years old, they have done one-half as much as they will ever do to mold his character."

St. Francis of Assisi was a busy man. One day as he was writing he instructed his assistant, "Let no one disturb me. I want absolutely no intrusion whatsoever for at least half a day." As the assistant started to leave, St. Francis called him back and said, "Unless it is a little child who asks for me." St. Francis recognized something we all must recognize, that children do not wait. Their eagerness, their enthusiasm, their curiosity will not wait until we are ready. We have only one opportunity to teach and enjoy them, and that opportunity is now, this very moment.

No one has ever lived a fuller, busier life than Jesus. He had a tremendous task to complete in just three short years. Every moment was essential, yet He readily gave these moments not only to adults in need, but to children as well.

[Aug. 11, 1979]

(By Gail Johnson)

The medical needs of children are unlikely to be met by chance. The parents must take the primary responsibility of child care. This role especially falls to the mother who usually arranges for check-ups and immunizations.

The monitoring responsibility usually is assumed by the family's physician or in some instances by the community health nurses or school nurses. Parents must recognize and evaluate cues the child gives them and arrange for appropriate treatment. But it must also be stressed that although there are certain guidelines, each child will grow in their own way.

There are many resources for parents, such as informational pamphlets to which they may refer. Well baby assessments are usually held by the community health nurses. The most frequent request at these clinics is reassurance in the simple aspects of child care. Any problems with the child are referred to the child's doctor.

Pre-school assessments can also pin point potential problems such as vision and hearing problems and appropriate follow-up can be arranged.

Despite the availability of resources directed toward health promotion and prevention many facilities are underused. One of the major causes of this is that after the first year of age, parents feel they do not need to secure care for well children.

The old adage, "An ounce of prevention is worth a pound of cure," can apply to the health care of children. Regular and periodic screening and updated immunizations are examples of this.

[July 30, 1979]

(By Billie Keenan)

Every parent in Mitchell has more than likely heard the phrase "There's NOTHING to do" at least a million times. The Parks and Recreation Department provides almost that many alternatives for energetic children.

Recreation plays an important role in a child's development. A child who is exposed to a variety of recreational activities will be more apt to make responsible decisions on how to spend his leisure time constructively as he grows older. In this International Year of the Child, an emphasis has been placed on broadening the recreational experiences of the youth of Mitchell.

Athletic activities have always provided a solid base for programming. Large numbers of children can participate, while family members and friends can also get involved as spectators. A total learning experience with the key word being "fun" is provided. Children have the opportunity to socialize with peers, get to know authority figures such as coaches on a one-to-one basis, and master physical skills at their own speed. Basic rules are taught, and children learn the importance of fair play and good sportsmanship. Whether it be team or individual sports, a wide variety is available for the interests of any child.

Children are some of the most curious and creative people around! So, when programming for them, creative outlets are a priority. Nature day camps get children in closer contact with the mysterious world of nature, and programs such as Art in the Park give them the change to share their individual talents in the arts, music, dance and dramatics.

Fun, laughter, physical well-being, the joy of accomplishment, the excitement of exploring new areas, a feeling of self-worth and the worth of others—just a few of the benefits for children through recreation.

[July 2, 1979]

(By Shirley Barns)

Even so late as 10 years ago many children, handicapped by birth defect or disease, were doomed to an existence in back bedrooms or restrictive institutional facilities. The right to a life in the social mainstream was denied them by disbelief in and ignorance of their real worth and potential. Society watched as, in the early fifties, courageous parents and legislators led the movement to bring these children into the realm of every day life and acceptance. A former South Dakota governor, Joe Foss, was one of the group of national leaders who were involved in the beginning effort which now, in the late seventies, declares that every child with a handicap has the right to special care.

Institutional workers, legislators, educators, indeed, an entire citizenry has been challenged by the force of that declaration to ensure that children with special needs receive a full measure of the meaning of this right. It does mean that they deserve:

The right to life in the least restrictive environment;

A free, public education;

Therapies which speed the habilitative process;

Recreational opportunities;

Accessible buildings and transportation systems;

Acceptance in the mainstream of American life.

In reality, this movement has just begun. New dimensions to its meaning will come with its development. True and lasting rights will come for these children through moral and legislative commitment of a people influenced by research now underway.

[Aug. 27, 1979]

(By Bonnie Messer)

The right to enjoy these rights, regardless of race, color, sex, religion, national or social origin.

Today people are very concerned about the development and conservation of our natural resources. In our discussions, we often tend to overlook our nation's greatest natural resource—our children. Truly, the future of our country and the world depends upon the children who will be tomorrow's leaders as teachers, ministers, doctors, politicians, lawyers, etc.

In our multicultural nation, people from many different backgrounds and cultural heritages have contributed to making this country what it is today. To ensure the continued growth of this great nation, we need the skills and services of all our children—Scandinavian, Italian, Chinese, Irish, African, Asian, Jewish, Mexican, German, and American Indian. As citizens, we must do all that we can to provide these children with adequate care (physical, educational, and emotional) so that they can develop to their fullest potential.

There are approximately one million American Indians in the United States; one-half of them are under 17 years of age. We cannot afford to lose their contributions. Yet, 50 percent of those young people presently drop out of school—a rate that is double the national average. Did you know that the average length of schooling for American Indians is 5 years? How many potential Albert Einsteins, Oscar Howes, and Leonardo da Vincis are we missing?

In South Dakota, 5 percent of our population is American Indian. We need to seriously ask ourselves if the American Indian children in our communities are having equal opportunities to the rights of adequate nutrition and health care, quality education, loving care in their own homes, economic security, recreation and play, and most important, the right to grow up to be a useful member of society.

The International Year of the Child is a time for each of us to recommit ourselves to not only providing more positive growing environments for our own children, but also to work towards improved living conditions for minorities in our state and nation.

[July 21, 1979]

(By Nan Jakobson)

This year has truly been the "Year of the Child" in our home. After 10 years of marriage as a "couple," we officially became a family!

Anne-Marie, who came to live with us last Nov. 21, became ours in the true legal sense just last month when her adoption was finalized. As special as this was for us, this is not a unique or uncommon experience in our society. But I would like to zero in on an area to which I've become much more sensitive the past eight months—the vocabularly of adoption.

Please don't think me judgemental if you have used some of the words, terms or phrases I cite. I'm sure I've used them myself when talking to other adopting families. And please don't feel reluctant to visit with me the next time you see me out with the baby, for fear you'll say the wrong thing. I'm still learning, too!

But words can evoke feelings and emotions. They can carry implications or become labels. They can bring opposite to mind and thereby other meanings than the original words chosen. Following are some words or phrases that my husband and I have personally had experience with:

"Natural mother." Does this make the adopting mother, then, the unnatural mother? Better choices might be birth mother, biological or genetic mother, when speaking of the woman who gave birth to the child.

"How could anyone give that baby away?" Attributes an uncaring, unloving nature to the biological parents when just the reverse may have very well been the case.

"She looks enough like you to be your own." She is our own! And besides, I think we all know families where the children don't resemble each other or their biological parents at all.

"What a lucky little girl." That's a loaded one, too! While this most probably is meant to be a compliment to the adopting parents, it can carry other implications when the child is old enough to understand the reason for herself or himself. For instance, does that mean that life with the biological parents would have been unlucky or bad? Does it mean that the child has to try extra hard to live up to being "good enough" for these "wonderful parents" he or she has been placed with?

Enough said! In this "Year of the Child," perhaps we can all examine our word usage in regard to adoption just a bit more closely so that we can be more sensitive to the feelings and emotions of those involved, most particularly, the children.

[June 25, 1979]

(Karen Iverson)

Ah, I remember well. . . . Today I see you sitting there, a new book in your hand, the pages flipping. You look up, momentarily, to see if I'm still there, then wrinkle up your face and grin. It's ok and soon you are lost in your busy world of play.

Ah, just a single year ago you were a squiggly little bundle of girl. Laid into my arms for the first time, you made a very special moment shared by your daddy and me.

You're walking now—still a little wobbly sometimes off exploring every corner, every surface, every object that catches your attention or instincts. A year ago we were only guessing at what accomplishments you'd make.

A year. One single year. But a year that has made a great big difference.

We saw you adjust to night and day, before never knowing there was any difference. You kept us up all night, wide awake, hungry, wanting to be cuddled until in the wee morning hours we fell asleep at last.

We watched you find your little hands and feet, to grope for objects that were little more than a passing shadow in front of you.

You went on to first roll over, to sit, to scoot and crawl and then to walk. When you found what feet were used for, there was no stopping you. Tops of everything, insides of everything were a mystery to you, so you became the super sleuth.

We felt every tooth come in and cooled down your fevers. Each time a new one showed up, we had to check that it was coming straight and true.

When you declared your independence we stood by and encouraged your individuality, your spirit. We know you have a right to be you, yet we know we must teach you, mold you, shape you, to develop your personality wisely and well.

But more than anything else, we've loved you.

We've licked one year of parenthood. Through it and the many more to come, we seek but one thing: That whatever the future brings, we have, at least, put forth our best in the role of Mom and Dad.

COMMON ELIGIBILITY MAKES COMMONSENSE

● Mr. JEPSEN. Mr. President, for the past several months I have had the pleasure of working very closely with the Iowa Department of Social Services. The department has been and continues to be very helpful to my office in understanding and interpreting the ever abundant maze of Federal programs which serve the poor, the disadvantaged, and the elderly.

During the August recess the Iowa Department of Social Services expressed concern over the manner in which complexity and inconsistency in determining client eligibility for income maintenance programs result in a multiplicity of forms, and leads to confusion for both clients and workers and increased errors.

This is of particular interest to me because of the recent debate here in the Senate over error rates pertaining to AFDC and medicaid entitlements.

Therefore, Mr. President, I would like to submit for printing in the RECORD a statement prepared by the Iowa Department of Social Services which I believe the Members of Congress and their respective staffs will find both useful and informative.

The statement follows:

COMMON ELIGIBILITY MAKES COMMONSENSE

(By Diane Milobar—Iowa Department of Social Services)

The Problem: Complexity and inconsistencies in determining client eligibility for income maintenance programs* result in a multiplicity of forms and lead to confusion for both clients and workers and increased errors.

Background: Standards and methods of computation vary from program to program in many areas including: resource and income limitations and exemptions; child care deductions; training allowances and educational loans and grants; work expenses; interest and life insurance. The following examples are illustrative of needless program eligibility discrepancies:

To be eligible for ADC a family is limited to resources of $800 plus $400 for each additional member. That same family could have $1,750 in resources—or $3,000 when there are two or more members and one is over age 60—and still be eligible for food stamps. The ceiling on resources for SSI is $1,500 an individual and $2,250 per couple.

ADC allows deductions from income for the actual cost of child care, but the food stamp program combines child care and housing and sets a maximum deduction. (SSI has no allowance for child care.)

Work expenses are computed for ADC and SSI, but the food stamp program allows a flat 20 percent deduction for these.

The Work Incentive (WIN) training allowance is counted as income for food stamps but is exempt for ADC; CETA training allowance is counted as income for food stamps but exempt from ADC and SSI.

Household goods are totally exempted for ADC and food stamps, but SSI allows $1,500 for an individual and $2,200 for a couple.

In food stamp computation, interest from a savings account is counted as unearned income. ADC exempts income from any source

*Income Maintenance programs considered are: ADC, SSI, food stamps and medical assistance. An ADC or SSI client is automatically eligible for Medicaid.

under $5, so most interest is disregarded. If interest is posted quarterly or less, it is not counted for SSI.

The cash value of life insurance is exempt for food stamps as long as it's not converted to cash. SSI will exempt life insurance with a face value of $1,500 or less, but if it's worth more, the entire cash value is counted. ADC exempts $1,000 face value per member of the eligibility group. If the total life insurance exceeds that figure, then the cash value is substituted for the face value; if it still exceeds limitations, the excess is applied to the family's resources.

As you can see, it gets pretty complicated, and income maintenance workers must undergo continuous training to keep up with the changes that occur in all the programs. Sometimes increased benefits in one program affect another program. For instance, ADC or SSI grants may increase for some clients causing their food stamp allotments to decrease. Try explaining that one.

If common eligibility is such a good idea, why hasn't it been implemented? It's a great idea, but its time hasn't come. There has to be a federal congressional initiative toward consistency among programs, uniform laws and regulations. At present basic philosophic differences exist between HEW, the agency that provides basic financial grants, and USDA, the agency that issues food coupons. The food stamp program is highly regulated at the federal level, as contrasts to the ADC program where federal regulations are loose enough for individual state differences.

Recommendation: To reduce error rates and cut unnecessary program complexity, there should be a federal move toward common program eligibility. Basic philosophic differences between HEW and USDA must be broached to achieve common standards uniformly applied.●

IF THE SELF-RIGHTEOUS RULE

● Mr. METZENBAUM. Mr. President, earlier this year, former Senator Thomas McIntyre of New Hampshire, one of the finest men to ever have served in this body, published a profoundly disturbing book. In that book, entitled "The Fear Brokers," Senator McIntyre gave to the people of this country a stark warning of what the rise of the so-called "new right" could mean for the future of our democratic institutions. If we ignore his warning, we do so at great peril.

On August 6, in a speech before the Summer Leadership Conference of the Michigan Education Association, Senator McIntyre spoke out forcefully about the ruthless tactics and the authoritarian potential of right wing extremism in America. I commend this address to the urgent attention of my colleagues and I ask that it be printed in the RECORD.

The address follows:

ADDRESS BY FORMER U.S. SENATOR THOMAS J. MCINTYRE

IF THE SELF-RIGHTEOUS RULE

Although this is my first visit to Sault Ste. Marie, I feel a special kinship with this community.

There is an institution here that was dear to a very great American. I speak of the Lake Superior State College and the late Senator Philip Hart.

The origin of the Philip A. Hart Scholarship Fund for Lake Superior State College says a great deal about the kind of man—the kind of American—Phil Hart was.

He saw a struggling new college in need of scholarship funds. He knew there were Michigan high school graduates who deserved a chance to go to college. And upon his death, and to honor his wish, his many friends of all political persuasions, color, creed and ethnic origin joined together to sponsor a symphony to raise the seed money for the scholarship fund.

Many of the people who worked for this memorial to Phil Hart did not agree with his politics. But they respected his integrity, his character . . . and, most of all, his consummate decency.

Throughout his life he pursued the social justice goals of his political and his religious heritage. But he did so with understanding and magnanimity and endless good will. And this is why even his political foes held him in such warm esteem.

What Phil Hart was—and what he stood for—is the very antithesis of a political movement in America today that is the subject matter of this part of your conference—and of a book I have just published.

The book is called "The Fear Brokers," and the subject is The New Right.

You'll be hearing from other speakers about the organizations and the people who make up the leadership of The New Right, so I'm going to concentrate my remarks on the reasons why I believe the movement is so dangerous to America.

I am convinced that the New Right poses the greatest threat to this country since the days of Joe McCarthy. And I would remind you that such wise observers of the American scene as Eric Sevareid have called the McCarthy years the closest we've come in this century to seeing our basic institutions collapse and disintegrate. That takes on special meaning when we consider the other major crises of this century—four wars, the Great Depression, and Watergate.

What is more, I believe that the major media of this country have not yet recognized the full dimensions of this threat. What the New Right is—and what it portends—is the great untold political story of our generation.

I am willing to predict here and now that when the strength of the New Right manifests itself at the national political conventions next year, the press will watch in openmouthed amazement.

I have told friends—and only half facetiously—not to be surprised if they see Ronald Reagan booed for sounding too liberal when he takes to the podium at the Republican convention, for the New Right delegates at that convention will brook no departure from the True Believer line even if it is done in the interests of party unity.

Am I saying the New Right will nominate a candidate for the 1980 presidential election?

No.

But I am convinced that its grassroots skill in electing delegates to those conventions could force both parties to accept planks in the party platforms which would change the character of those parties as we have not seen it done since the Goldwater convention of 1964.

If this happens, no one should be surprised. We've been told, again and again, by the leaders of the New Right that they are out to destroy the Republican Party and rebuild it in their image. We have also been told that they intend to divide and weaken the Democratic Party and wean from it those party members they believe are most susceptible to the New Right's political primitivism and single-issue appeals.

Perhaps you have heard this before, but let me quote New Right leaders to illustrate what I mean:

Here are the words of Philip Weyrich, the National director of The Committee for the Survival of a Free Congress:

"We are different from previous generations of conservatives. We are no longer working to preserve the status quo. We are radicals working to overturn the present power structure of this country."—end of quote.

Here are the words of Richard Viguerie, the computer mailing wizard who is known as The Godfather of the New Right:

"I don't believe in my lifetime you will ever again be able to successfully market the word Republican. You could as easily sell the Edsel or Typhoid Mary. The Republican Party is like a disabled tank on the bridge impeding the troops from crossing to the other side. You've got to take that tank and throw it in the river."—end of quote.

Now if this strikes you as brazen beyond belief, you might want to consider why the New Right is as cock-sure as it is. After all, the Number of Americans actively enrolled in the New Right still constitutes only a fraction of membership of either party and a much smaller fraction of the total population.

Why then do they speak so confidently of taking over the Republican party and the leadership of the nation?

Because they have already demonstrated that they exert power far beyond their numerical strength.

These are not loonies who run around talking to each other. They are skilled, sophisticated, pragmatic politicians who know where and when to push the right buttons to get things done their way.

In Viguerie, they have one of the most effective direct mail operations in the world at their disposal. They can reach out and tap True Believers for all the money they need. They can reach out and trigger True Believers to inundate the Congress with mail on any issue they want to influence. They can reach out and mobilize thousands to work in campaigns, take over political caucuses, wrest control from party regulars.

Though they operate as separate organizations under the umbrella title of the New Right, they are really one network operation with the same ideology, techniques and goals.

And they have mastered the strategy of using other, conservative but main-line organizations to increase their influence exponentially.

Example: When the New Right leadership set out to defeat a very modest labor law reform bill in 1978, they worked hand-in-glove with business political action committees, the Right to Work Committee, the Chamber of Commerce and the National Association of Manufacturers.

When the New Right Leadership set out to defeat ratification of the Panama Canal Treaties, they used patriotic and veterans organizations to augment their clout with the Congress and they came within one vote of stopping ratification.

Moreover, they place their shots so as not to waste bullets. They concentrate election efforts in those races where there is no incumbent, where one candidate seems especially vulnerable to an emotional single issue, or where the voter turn-out is expected to be unusually low. Then they throw all their resources into the effort, including an all-out push to get the True Believers to the polls.

Is it effective? Last year the New Right knocked eight Senators out of office on the Panama Canal issue, elected thirteen of its own candidates and lost only one incumbent.

Nor can anyone tell me that the Congressional stampede to get on the Proposition 13 bandwagon for a short time last year was a genuine conversion.

I've felt those pressures. I can understand how they work. I can sympathize with those who rationalize that cutting a conscience corner here or there is the only way to keep someone much worse from winning their office. And because I understand, I admire more than ever before the Senators and Congressmen who stand firm under those

pressures. And there are many of them, my friends. Enough of them like Phil Hart to keep us from making some colossal mistakes.

But I'm worried. I don't know how much longer the balance of reason will prevail. That's why I wrote "The Fear Brokers." That's why I'm here today.

If I thought that the New Right had peaked, that its influence was on the wane, I would not be as concerned as I am. But I do not have that confidence. Indeed, I believe the worst is yet to come.

Let me tell you why.

All of the conditions that made it possible for the New Right to surface and succeed still prevail.

On November 10, the Gannett newspaper chain's Pat Ordonvensky wrote, and I quote: "The activist New Right, which has been making steady gains in both Houses of Congress, got by far the most for its money in Tuesday's voting."

But election results are only a small part of the measure of New Right successes. What you cannot appreciate unless you've been in the Congress—as I have—is its influence on incumbents who fear becoming its targets.

This is hard to calibrate. But you can feel it. You can look at votes on certain issues and almost sense what went into the decision on how that vote was cast. And sometimes you can sense fear.

No one can tell me that the House vote against public funding of abortions for needy women is an accurate reflection of how individual House members really feel about this issue.

No one can tell me that the close Senate vote earlier this year on the restoration of prayer in the public schools is an accurate measure of how Senators really feel about this issue.

For all the signs of well-being, there is great uneasiness and uncertainty among Americans.

Vietnam shook their confidence in the power or the moral purpose of our country.

Watergate shook their confidence in the rectitude of leaders and institutions.

Inflation continues to erode their confidence in the currency of this nation.

The energy crisis has forced recognition that we may no longer be the land of endless milk and honey.

The two major political parties are in disarray, fragmented, undisciplined, floundering in search of a unifying gospel.

Centrists and liberals in both parties have abandoned the political lists to extremists while they reassess their own attitudes in a time of harsh new economic realities.

We are a nation at loose ends, my friends. And that is an open invitation to extremist ideologues to move in and take over.

Now I'm going to draw an analogy here to lead up to my final observations, but I want it clearly understood that the analogy I've chosen in no way should be taken to mean that I equate the New Right with the Third Reich. I do not. Extreme though the New Right's ideology may be, it is a far cry from the sinister and malevolent ideology of that time and land. Nevertheless, there are disturbing similarities in circumstances and strategies we ought not overlook.

Hitler, you may recall, noted that the time to capture power is the time when the people have lost confidence in their currency, their government, and themselves—a time when, as he put it, "everything is anchorless."

Once he seized power, he moved quickly to quell internal criticism. And I need not remind this audience that his first target was the educated. He burned books. He vilified intellectualism—which Himmler said rotted the German character because it equated with Jewishness. In short, Hitler set about to quiet every voice of sane and reasoned protest—be they college professors, priests, preachers, rabbis, journalists, authors, or philosophers.

At the same time, he cynically exploited the peasant, exalting him, wooing him to march behind the superpatriotic banner, telling him over and over again that the leaders he had deposed were the people who had betrayed Germany, that they, the peasants, were the loyal and steadfast Germans.

If you have watched the New Right in action, you will have noted the similarities. They are thriving in a time of uncertainty and lack of public confidence in leaders and institutions. They woo the common man by exalting common sense over learning. They quell their opposition with single issue attacks frequently launched under the guise of "real Americanism." They draw up their political hit lists well in advance of elections and launch their attacks early and hard.

The New Right has been running ads and mailing messages against George McGovern since early summer, long before he had an announced opponent in his bid for re-election. And those mailings, my friends, viciously imply that George McGovern—a decorated World War II combat veteran—is not a loyal American. Because Senator McGovern supported ratification of the Panama Canal Treaties and because the New Right believes he will vote to ratify Salt II, posters have been prepared which say: "McGovern Sells Out the U.S. Again"... If McGovern wins, YOU LOSE!"

Also on the New Right hit list for 1980 are office holders, including Catholics, who voted to provide public funds for abortions for indigent women when pregnancy endangered life or health or was the result of incest or rape. Though we Catholics in Congress are opposed, by creed, to abortion, a number of us recognize that Americans differ on this agonizing issue, that individual choice must be considered, and that it is inherently unfair to deny an option to the pregnant poor that women of means can exercise under the law. On the Sunday before the election that I lost, pamphlets describing me as a baby killer were stuck under the windshield wipers of cars in Catholic church parking lots. This time around, Father Drinan, the only Catholic priest in the Congress, is on the New Right's hit list.

If there is one characteristic that is common to the leadership and much of the membership of the New Right, it is self-righteousness. And this leads into my final comment.

Earlier I said that I believe the movement had not yet peaked. What prompted that observation is clear evidence that the New Right is now deliberately and openly setting out to enlist an immense new bloc of Americans in its political cause. I speak of an estimated 75 million evangelical Christians.

It is important to note here that there are political differences within the evangelicals which are common to most groups. The New Right could not hope to enlist progressive evangelicals like Jimmy Carter, or former Iowa Senator Harold Hughes, or Oregon Senator Mark Hatfield, who wrote the introduction to my book, for example. But the New Right hopes to convince conservative evangelicals that the movement shares with them a mutual attitude on most issues.

The recruiting campaign was launched this summer under the title: "Christian Voice." And it is reportedly meeting with astonishing success in the heartland of America. Already it claims to have enlisted 1,500 ministers and 100,000 Christians, and hopes to have 5,000 ministers enrolled by next year.

The organizers of Christian Voice call themselves, and I quote: "The chosen shepherds of the flock in these times." Among the New Right leaders actively involved are Senators Roger Jepsen of Iowa, Orin Hatch of Utah, James McClure of Idaho, Gordon Humphrey of New Hampshire, and Congressmen Robert K. Dornan of California, Daniel Crane of Illinois, George Hansen of Idaho, and Larry McDonald of Georgia, among others.

Christian Voice claims to have an initial budget of $1 million, has opened and staffed a Washington office, and will lobby Congress on issues dear to heart of the New Right.

Christian Voice also has announced that it will use Christian television networks, which claim to have between 40 and 50 million viewers, to spread its views nationwide. Sixty second spots will feature Senator Orin Hatch on issues before Congress. There will be half hour documentaries on Christians in politics, a series of radio announcements and a weekly 30-minute commentary for cable television. Senator Roger Jepsen already has been featured on one 30-minute program.

The Rev. Robert Gordon Grant, one of the founding directors of Christian Voice, calls 75 million evangelical Christians, and I quote, "the sleeping giant of American politics."

"The giant is no longer asleep," he said. "Millions of Christians are frustrated, angry and fearful. They are searching for a means to channel their frustration in such a way that they can have real impact."—end of quote.

Now what kind of "Christian" politics are we talking about here?

Well, in the first place the Rev. Grant says political liberalism is, and again I quote, "inconsistent with Christianity." He says the nation "is crumbling under the onslaught (by) the rulers of darkness of this world and insidiously sustained under the ever-more-liberal ethic."

Let me turn to another politicized evangelical, the Rev. Bob Thoburn of Virginia. He runs an alternative Christian day school. Richard Viguerie, the godfather of the New Right, is a Catholic. He took his children out of Catholic catechism class because the nuns discussed ecology. He took them out of public school because he didn't like the way history was being taught. Then he enrolled them in the Rev. Thoburn's school.

Well, the Rev. Thoburn ran for Congress last year because, he said, "what's the use of having some evangelical Christians in office (like Mark Hatfield), if they don't vote like Christians?"

And what does voting "like Christians" mean? Here are some of Thoburn's views: The welfare state is contrary to the Bible. The purpose of civil government is to punish criminals, protect our property rights, and maintain a strong defense. The government's function is not to redistribute wealth; the income tax is unscriptural . . . the free market is the biblical approach to economics . . . We should have let the military win in Vietnam in a couple of weeks. The most powerful nation in the world could have easily licked a fourth rate power like them.

All right, then, so much for the politics of the movement. How about the danger of mixing church and state?

You will remember that the Third Reich successfully converted its political creed into what amounted to a state religion. Is that what the New Right intends to do with Christian Voice?

I sincerely wish the New Right was more convincing in its denials. Let me read one paragraph from an article in a recent issue of the Des Moines Register-Tribune to show you what I mean.

"(Senator Orin) Hatch said he was not troubled that the lines between church and state may be blurred by Christian Voice, and he agreed that there are similarities between its efforts and the goals of Iran's Ayatollah Khomeni to establish a state based on religious principles. 'There is the same desire to spread the viewpoint of good people . . . so that we can change some things that are happening,' said Hatch."

Do you wonder now why I'm so worried about the New Right?

I cannot close, however, without sounding a note of optimism. What you and your parent organization, the NEA, are doing to alert the public to the dangers of this movement is extremely encouraging. I find the same alarm being sounded by labor organizations, women's groups, minority leaders, librarians, and main-line church leaders . . . and not a moment too soon. I am encouraged, as a Catholic, that some of the leaders of my church are recognizing that the social justice goals of our faith suffer a net loss when an office holder who supports those goals, but does not vote a rigid line on abortion, is defeated by a Right to Life candidate who supports none of those goals.

I leave you now with this final thought.

The New Right and Christian Voice like to quote the line from the Bible that goes ". . . when the righteous rule, the people rejoice; when the unrighteous rule, the people mourn."

A columnist in the Des Moines Register Tribune added one more line: "And when the self-righteous rule, watch out!" ●

NO COMMENT

● Mr. McGOVERN. Mr. President, I would like to submit for publication in the RECORD an August 28, 1979, editorial from the Concord, N.H., Monitor as well as a letter from our distinguished colleague, GORDON HUMPHREY.

The material follows:

HUMPHREY TESTS "CODE"

U.S. Sen. Gordon Humphrey, R-N.H., has signed a letter sent to 40,000 conservatives nationwide opposing the re-election candidacies of five of his colleagues in the Senate.

The letter, distributed by the National Conservative Political Action Committee of Arlington, Va., calls the five Democratic senators either "extremist" or "radical" or associated with "big labor."

It is Sen. Humphrey's prerogative to seek the defeat of those running for public office whom he considers liberal, and to promote the candidacies of those who espouse a political philosophy akin to his own.

But the Senator's allegiance to this cause should take second billing to his responsibilities to his New Hampshire constituents. This is where the letter in question may do damage to the best interests of New Hampshire.

It is no secret that the U.S. Senate is a closely-knit club with a highly-developed code of personal relationships, expressions of mutual respect and effusive courtesy which any member violates at his peril.

While on one hand it is almost a comic opera code observed despite sometimes strident philosophical differences, it also is a valuable foundation for an individual senator to win Senate approval of legislation that particularly affects his home state.

If other members of the Senate have no particular interest in the legislation, they will vote for it out of deference to the senator from the state concerned. Purists in the democratic process may decry this back-scratching process, but that is the way it works.

The letter Sen. Humphrey signed described Sen. Birch Bayh, D-Ind., as "famed for his extremist support of the Equal Rights Amendment . . ." It said Sen. George McGovern, D-S.D., was a "radical . . . who favors recognition of communist Cuba."

The letter called Sen. Frank Church, D-Idaho, a "radical . . . who single-handedly has presided over the destruction of the FBI and the CIA." It described Sen. John C. Culver, D-Iowa, as "the most radical member of the U.S. Senate."

And it said Sen. Alan Cranston, D-Calif., was "one of big labor's staunchest allies in the U.S. Senate."

The letter was widely viewed as a violation of the Senate code which holds that one senator should not attack another publicly.

How Sen. Humphrey gets along with his colleagues is something he must decide for himself. But when retaliation for his actions comes in the form of votes against legislation that would benefit New Hampshire, all of the state suffers for it.

The Senate's courtesy code may be an anachronism, but it is there and Sen. Humphrey would do well to consider the consequences to New Hampshire before he violates it.

GORDON HUMPHREY,
Washington, D.C.

MONDAY MORNING

DEAR FRIEND: The numbered report I've enclosed is for your eyes only.

I'm sending this report to a limited number of leading conservatives across the country.

I've attached a special label to your report with your name and personal report number. To verify receipt of your report please peel off the top half of this label and send it back to me on the enclosed reply memo.

You see, this report contains the National Conservative Political Action Committee's (NCPAC) plans for electing a conservative majority to the U.S. Senate in 1980.

1980 provides us with an unusual opportunity to make noticeable gains. Thirty-four Senators in all will stand for re-election; twenty-four are liberal Democrats. Most observers are convinced that at least half of the liberal Democrats and a few liberal Republicans will be vulnerable.

Let me give you an idea of which liberal Senators are standing for re-election in 1980:

George McGovern—the radical Senator from South Dakota who favors recognition of communist Cuba.

Frank Church—the radical Chairman of the Senate Foreign Relations Committee who single-handedly has presided over the destruction of the FBI and the CIA.

John Culver—the freshman Democrat from Iowa who, while largely unknown, is credited with being the most radical member of the entire U.S. Senate.

Birch Bayh—the Democrat from Indiana who is famed for his extremist support of the Equal Rights Amendment extension and abortion on demand.

Alan Cranston—one of Big Labor's staunchest allies in the U.S. Senate.

And I could list at least twenty more liberals just like them who will be standing for re-election in 1980. The 1980 election will provide us a real opportunity to make inroads into the strong liberal domination in the U.S. Senate.

And because of the NCPAC special plan called "Target '80" I am convinced that we can actually seize control of the U.S. Senate.

But I'm sure you understand that conservatives need to get organized early if they are to win. Unfortunately, many of our candidates don't realize this important fact. They wait until the last minute before announcing for election.

As a result, liberal Senators begin with a huge advantage by using tax money to publicize their names and activities.

And no one criticizes these Senators for their liberal votes in the U.S. Senate until a few months before the electon.

Well, the NCPAC solution to this problem is amazingly simple. We will set up independent campaigns in each of these critical states (and many more if funding permits) immediately, in order to explain to the voters of these states just how radical their U.S. Senators are.

Why? First, because incumbents begin with huge name identification and popularity ratings subsidized by your tax money. Incumbents use their staff, computers, mailing services, newsletters and many other government funded services to fool unsuspecting voters into voting for them.

Second, conservative opponents to these radicals won't surface for another year, and many won't even begin their campaigns until September of 1980. But professional polls show that up to 60% of the voters decide who they are voting for before September 1st.

Conservative candidates are like a football team which only starts playing in the fourth quarter.

So unless we get started now, and expose these radical Senators, it will be the fourth quarter before we know it.

The "Target '80" plan includes the use of sophisticated polling services, massive mailings to registered voters in these states, as well as an entirely independent radio and television and newspaper advertising program which will destroy the popularity ratings of many of these incumbent liberals.

The "Target '80" plan itself—as well as its scope and depth—is unprecedented in American political history. That's why I'm so excited about it. I hope you are too.

Because I'm convinced that "Target '80" will work.

I want you to know, NCPAC doesn't merely hand out money to conservative candidates, sit back and hope for the best. We provide expert analysis and campaign guidance which has proven the moving force in many important political races.

Most conservative candidates agree that NCPAC provides the best professional campaign assistance available today—the best pollsters, the best television consultants, the best advertising and precinct organization leaders, and many other key personnel.

And now, with your help, NCPAC will be successful in its most important project yet: taking over the U.S. Senate for conservatives.

Of course, it won't be easy, but I'm convinced NCPAC's "Target '80" plan will make possible gains in the U.S. Senate that we never dreamed of.

Just imagine the added beneficial side effects of this plan:

First, it will rid us of the most radical members of the U.S. Senate and the ringleaders for almost all liberal legislation that comes up in Congress.

Second, it will put all the other liberals on notice that if they step out of line and vote for the SALT Agreements, taxpayer financing of congressional elections, and all Big Labor's other special interest legislation, the voters will rise up and oppose them.

Third, we can then count on defeating the SALT Disarmament Treaty, repeal of the right to work laws, and other key liberal legislation that will be brought up this year.

Finally, it will let other good conservatives in the Senate know we can win key strategic battles.

Instead of just fighting liberal legislation, at last conservatives will start proposing legislation of their own—for the first time in 20 years.

NCPAC has already begun this massive program to rid us of the liberals in the U.S. Senate. Right now we need to commit $27,000 to polls alone to explore the weaknesses of incumbent liberal Senators.

Immediately after that, NCPAC needs an additional $157,000 to begin their first round of advertising. This program can't be stalled for another minute if it's going to be successful.

Because of conservatives like you, NCPAC has worked wonders in electing scores of conservatives to the Congress, as well as state and local office.

That's why I am going to come right out and ask you to send a contribution right away to NCPAC for their special "Target '80" project. So please do me the personal favor of reading the enclosed "Target '80" report I have enclosed and then send at least $15 to NCPAC immediately.

If at all possible, I'd like you to send as much as $25, $50, $100 or more if you can.

As I mentioned earlier there are not many people who, like you, are astute enough to understand the importance of programs like this.

That is why you are so important to the success of NCPAC's "Target '80" program.

So please, don't hesitate. Send your largest possible contribution to NCPAC today.

I look forward to hearing from you.

Sincerely,

GORDON HUMPHREY,
U.S. Senator.

P.S. "Target '80" is so important that NCPAC needs the help of every dedicated conservative. Please let us know if you'll be able to help today.

P.P.S. Please don't forget to peel the label off the special report and put it on the reply memo to verify that you are the one who personally received the report.●

U.S. IMMUNIZATION DRIVE IS SUCCESSFUL

● Mr. BUMPERS. Mr. President, a dramatic announcement was made by HEW last month which generally went unnoticed.

Surgeon General Julius B. Richmond announced that more than 90 percent of the Nation's children in grades kindergarten through 8 have been immunized against measles, polio, diphtheria, tetanus, and pertussis (whooping cough). Eighty-four percent have been immunized against rubella.

The new immunization levels reflect the dramatic success of the nationwide immunization campaign begun by HEW in April 1977, when immunization levels for the six diseases ranged from 66 to 75 percent.

Cases of measles and rubella, which were reported in epidemic proportions in many parts of the country in 1977, have declined significantly since that year. Measles cases dropped 78 percent, from 52,374 cases in a 1-year period ending August 19, 1977, to 11,711 cases in a comparable period ending August 1979. Rubella cases dropped 43 percent, from 18,315 cases in the 1977 reporting period to 10,421 cases in 1979.

In contrast to the eight cases of diphtheria and eight cases of tetanus that were reported in 1977, there have been no cases of diphtheria or tetanus reported among children this year.

Although immunization levels against polio are at an alltime high among children, 23 cases of the crippling disease have occurred in 1979, compared with 17 in 1977. The increase is due to outbreaks of polio in Amish communities in Pennsylvania, Iowa, and Wisconsin, which infected 15 persons. This increase in cases of polio occurred in a segment of our population in which immunization has been the exception rather than the rule. This should demonstrate the importance of vaccine protection.

Only five cases of paralytic polio have been reported in the non-Amish population in 1979. This is compared with 7 in 1978 and 17 in 1977.

Because few States required immunization against mumps as a condition of school entry in 1977, the campaign against this seventh preventable disease concentrated on preschool, rather than school age children. Since April 1977, administration of mumps vaccine to preschool children in public clinics has doubled from 1.5 million doses to more than 3 million doses. The number of cases of mumps among all children under 15 years of age has dropped 30 percent, from 15,512 cases in 1977 to 11,136 cases in 1979.

At the same time, the number of States requiring mumps immunization before school enrollment has increased significantly, from 2 in 1977 to 18 today. Mr. President, this may sound self-serving, but the national immunization program was modeled after the successful immunization programs organized for Arkansas children by my wife, Betty, when I was Governor.

In 1973–74, the State of Arkansas, through a massive coordination and cooperation effort by existing public agencies, such as the State health department, cooperative extension service, the National Guard, the Arkansas League of Nursing, the Arkansas Medical Society, and over 10,000 volunteers, increased the immunization level in Arkansas from one of the lowest in the Nation to the highest.

In 1975, the number of children in this country susceptible to preventable childhood diseases was a reflection of one of the most abysmal failures in the medical history of our Nation. The failure to conduct adequate awareness programs alerting the public to the risks and costs of epidemic was compounded by a lack of funding to support aggressive immunization programs. I was alarmed that only $6.2 million was appropriated in fiscal year 1975 for the childhood immunization grant program. In comparison, $35 million was appropriated in fiscal year 1979 for this program.

This increase in the appropriation level for childhood immunization grants over the past few years has received strong support from the chairman of the Appropriations Committee, Mr. MAGNUSON; the Senator from Massachusetts, Mr. KENNEDY, and the Senator from Indiana, Mr. BAYH. I also want to recognize the efforts of the late Senator Hubert Humphrey in support of this program.

The appropriation level increased to $17 million in 1977 from $6.4 million in 1976. The original request by the Ford administration in 1977 was only $13 million, but Congress added $4 million to the appropriation in the supplemental for that year. As I mentioned, the appropriations level for fiscal year 1979 was $35 million.

The immunization levels which I described at the beginning of my statement are a direct result of these appropriations and the effort by HEW and the thousands of volunteers who have worked on this program across the country.

State legislative activity has been an important factor in the battle against childhood diseases. Since April 1977, five States have enacted laws requiring every child to be immunized as a condition of school entry. Twenty-five other States have strengthened their immigration laws. Today all 50 States have school immunization statutes designed to insure that youngsters are protected against childhood diseases.

Childhood immunization, however, is not a problem that remains solved. There must remain a continuing education program and a continuing commitment to maintain the immunization levels that have recently been announced.

Mr. President, before rubella vaccine was perfected, an outbreak of German measles, or rubella, as it is called in this country, hit 300,000 people. During an epidemic of this type, children with rubella would infect or communicate the disease to their pregnant mothers. If this occurred during the first 3 months of pregnancy, it was an iron-clad medical certainty that the new child would be handicapped. As a result of that epidemic, approximately 30,000 children who were born during that period had rubella syndrome.

There are 250,000 adults and children in mental institutions across this country. It is estimated that between 5 and 9 percent of those cases are the result of mothers contracting rubella during the first 3 months of pregnancy. Probably two to three times that number of children are less profoundly handicapped and are in sheltered workshops or remain at home. Many constitute a serious financial drain on their families and a loss of productivity to society.

If we just assume that 7 percent of those people are there because of rubella then 17,500 people are institutionalized today as a direct result of rubella. Each one of those people in today's dollars will cost the States and the Federal Government $900,000 directly and through loss of productivity. It is costing this country $15.75 billion in direct outlays. This is an outrageous statistic and should be a cause of shame to all of us.

HEW has announced a long-range plan to immunize infants and calls for the education of new mothers while they are still in the hospital and for special outreach programs to remind mothers of the need for immunization and of the dates when booster shots are due.

We must remain vigilant in support of the childhood immunization program because it is one of the most critical and least costly ways of preventing needless suffering in this country.

I ask that a table indicating the percentage of first grade and kindergarten children with a history of specified vaccines in 1975 to 1980 school years be printed at the conclusion of my remarks. I also ask that two new articles on the immunization program from the Washing Post and New York Times be printed in the RECORD.

The material follows:

PERCENT OF 1ST GRADE/KINDERGARTEN STUDENTS WITH A HISTORY OF SPECIFIED VACCINE, 1975-76 THROUGH 1979-80 SCHOOL YEARS

Project area	Measles					Rubella					Polio (3+)					DTP (3+)				
	1975	1976	1977	1978	1979	1975	1976	1977	1978	1979	1975	1976	1977	1978	1979	1975	1976	1977	1978	1979
Region I:																				
Connecticut	91		91	94		81		92	92		88		90	96		93		91	96	
Maine	80	80	82	92		79	72	76	91		80	82	83	91		86	86	87	91	
Massachusetts	95	96	98	99		79	85	90	93		94	96	[1]94	98		95	96	[1]96	97	
New Hampshire	96	95	95	96		96	92	94	96		92	[1]91	94	96		94	[1]93	95	96	
Rhode Island	90	91	92	92		88	90	91	91		88	89	91	91		89	90	91	91	
Vermont	92	89		94		73	78		80		91	93		96		95	96		96	
Region II:																				
New Jersey	92	99	99	99		93	98	99			91	97	97	97		91	97	97	98	
New York State	92	94	96	97		91	93	95			92	93	94	96		92	94	95	96	
New York City	81	87		76		80	86		76		80	87		76		79	89		76	
Puerto Rico	27	55		72		24	55		72		24	53		76		28	55		72	
Virgin Islands	90					90					77					77				
Region III:																				
Delaware	90	87	90	98		87	85	89	94		91	87	91	94		93	89	93	95	
District of Columbia	95		95	98		97		79	97		98		89	95		98		93	97	
Maryland	98	99		97		96	99		98		96	99		88		95	97		91	
Pennsylvania	92	92		97		90	91		97		92	92		97		94	93		98	
Allegheny County	96	97	98	93		94	96	97	93		95	96	97	93		96	97	98	94	
Philadelphia			88	83				88	81				89	82				90	84	
Virginia	80	84	91	95		79	84	91	95		79	84	89	94		81	85	90	94	
West Virginia	96	96	98	98		95	96	98	98		96	97	98	97		96	97	98	98	
Region IV:																				
Alabama	93	94		96		93	94		96		93	94		96		93	94		96	
Florida	93	93	92	93		93	93	92	93		93	93	92	93		93	[1]93	[1]92	93	
Georgia	86	87		82		86	87		82		86	87		82		86	87		82	
Kentucky	75	79		90		75	79		90		75	79		90		75	79		90	
Mississippi	84			92		84			92		80			92		78			92	
North Carolina	96	95	97	96			95	97	96		96	95	97	96		96	95	97	96	
South Carolina	94			94		94			94		94			94		94			94	
Tennessee	98	94	98			98	94	98			95	93	97			95	92	97		
Region V:																				
Illinois		83		89			81		87			78		86			71		88	
Chicago	83	81		81		65	73		80		75	74		74		79	78		77	
Indiana	75	88		96		67	87		96		76	88		95		83	90		97	
Marion County	71	81	91	95		64	78	91	93		82	85	89	94		83	83	88	95	
Michigan	94	84	89	90		93	82	88	90		92	65	81	90		92	72	85	91	
Minnesota	98	98	96	97		95	98	96	97		83	85	79	92		84	[1]84	72	88	
Ohio	91		92	98		87		92	98		90		91	97		93		92	96	
Wisconsin	85	89		93		80	87		93		83	90		85		92	93		85	
Region VI:																				
Arkansas	90			99		88			98		87			98		90			98	
Louisiana	96	97		95		94	97		95		94	96		95		96	97		95	
New Mexico	99	96	97	98		99	96	97	98		98	[1]96	[1]97	98		[1]96	[1]97		98	
Oklahoma	90	81	95	96		87	82	95	96		91	84	91	94		93	90	98	96	
Texas	98	98	98			98	98	98			96	97	97			96	97	98		
Houston	96	98				98	98				93	95				94	95			
San Antonio	92	94				91	93				81	83				80	83			
Region VII:																				
Iowa	85	86	84	96		78	82	83	96		85	86	83	95		89	90	84	94	
Kansas	84	90	95	90		84	90	94	90		85	89	93	88		82	[1]86	[1]90	86	
Missouri	80			95		78			93		78			97		79			97	
Nebraska	93	94		97		92	93		96		94	95		97		95	96		97	
Region VIII:																				
Colorado	83	89		73		83	89		73		83	89		73		83	89		73	
Montana	77	77	81	84		66	68	73	82		86	85	88	83		87	88	92	84	
North Dakota	93	94		97		86	93		96		72	81		97		83	89		97	
South Dakota	96	97		88		97	96		88		96	91		88		96	95		88	
Utah	90	95		98		89	95		98		92	93		97		91	93		96	
Wyoming	89	91		90		86	87		89		91	94		88		94	95		89	
Region IX:																				
American Samoa																				
Arizona	75	80	87	90		70	72	84	88		78	78	80	92		85	84	92		
California	86	89		91		73	68		82		85	86		88		89	90		94	
Guam	95	95	94	89		94	93	92	91		88	89	95	91		80	90	95	90	
Hawaii	72	83		98		94	92		97		72	83		98		77	80	77	91	
Nevada	57	73	88	94		62	72	92	93		74	78	74	93					98	
Trust territory	82					71					66					68			95	
Region X:																				
Alaska																				
Idaho	80			67		71			67		82			67		91			67	
Oregon	87	88		97		78	81		96		86	86		93		86	84		92	
Washington																				

[1] Denotes 4+ doses.

[From the Washington Post, Sept. 10, 1979]

U.S. IMMUNIZATION DRIVE IS SUCCESSFUL, DOCTOR SAYS

ATLANTA.—At least 90 percent of the nation's youngsters have been protected against childhood diseases by a sweeping, two-year immunization program, federal health figures show.

And for some of the diseases, particularly measles, the immunizations have cut cases by as much as half.

Launched in 1977 by Joseph A. Califano, then secretary of health, education and welfare, the $58 million federal program targeted full immunizations for 90 percent of the nation's children under the age of 15 by October 1979.

Dr. Alan Hinman, immunization chief for The National Center for Disease Control in Atlanta, says the massive push has been successful.

"We will meet the target for schoolage children and I think we will have clearly exceeded it when all information is in by the first of the year," he said.

As a result of coast-to-coast publicity, millions of doses of vaccine have been given to protect against the preventable diseases polio, measles, diphtheria, pertussis, typhoid, mumps and rubella.

[From the New York Times, Sept. 10, 1979]

PROGRAM IS SHARPLY REDUCING CHILDHOOD DISEASES

ATLANTA, September 9.—At least 90 percent of the nation's children have been protected against childhood diseases by a sweeping, two-year immunization program, Federal health figures show.

For some of the diseases, particularly measles, the immunizations have cut cases by as much as half.

The $58 million Federal program, which was started in 1977 by Joseph A. Califano, Jr., Secretary of Health, Education and Welfare, sought to provide full immunizations to 90 percent of the nation's children under the age of 15 by next month.

Dr. Alan Hinman, immunization chief for the National Center for Disease Control in Atlanta, called the program a success. "We will meet the target for schoolage children and I think we will have clearly exceeded it when all information is in by the first of the year," he said.

The coast-to-coast drive enlisted Star Wars characters and sports stars to urge in advertisements that parents get their children to health clinics and pediatricians' offices. As a result, millions of doses of vaccine have been given to protect against the preventable diseases polio, measles, diphtheria, pertussis, typhoid, mumps and rubella.

Figures are still coming in from the nation's schools, but 1978 school entry surveys showed that 29 states had already met the 90 percent mark and that 95 percent or more of the children in 17 other states and major cities were immunized.

The results of the program have been impressive. "In the 1950's, we had 500,000 cases of measles and about 495 deaths each year," Dr. Hinman said. There were 57,345 cases of measles and 15 deaths in 1977, the year the immunization initiative began. In 1978, the disease control center counted only 26,871 cases with no deaths—a drop of 53 percent.

GOAL TO ERADICATE MEASLES

"This year we expect fewer than 20,000 cases and less than 10 deaths," he said. "This is clearly a result of the immunization activities." The success with measles has been so great that the Federal health goal now is to eliminate the disease in the United States by 1982.

Cases of rubella, or German measles, have fallen from 20,395 in 1977 to 16,468 in 1978, with 10,552 cases reported so far this year. Mumps affected 21,436 people in 1977 and 16,817 in 1978. This year 11,519 cases have been counted.

A major reason for success against mumps has been the discovery of a vaccine that is 95 percent effective, according to medical authorities. This vaccine, which was licensed in 1967, is safe and it is not accompanied by fever or local irritation, as in the case of some vaccines for childhood diseases.

"Reported mumps activity has declined fairly steadily since 1971," the disease center said. "This has been accompanied by decreases in the reported mumps-associated complications, aseptic meningitis, encephalitis and death."

ANOTHER PROFILE IN COURAGE

● Mr. METZENBAUM. Mr. President, for more than a decade it has been my pleasure to know Annie Glenn, the dedicated wife of my colleague from Ohio, Senator JOHN GLENN.

Annie Glenn recently made a speech before 300 women in Ohio. That would normally not be newsworthy, but for this wonderful lady it was a milestone in her life and an inspiration for millions of other Americans.

For most of her life, Annie Glenn has been a stutterer and as she is quoted in an article in the Cleveland Plain Dealer on October 6, 1979:

There are more stutterers in this world than anybody knows, and they're hiding.

But Annie Glenn has not been among them and for some 6 years she has been undergoing therapy to overcome the problem. When she made that speech the other day, it marked the first full-length speech she had ever made in her life.

I take this opportunity to express how proud and happy I am for her. It is truly an example of courage and perseverance.

I ask that the article, entitled "Speaking of Courage," be printed in the RECORD.

The article follows:

[From the Cleveland Plain Dealer, Oct. 6, 1979]

SPEAKING OF COURAGE

CANTON.—Annie Glenn recently did something that her husband, John, U.S. senator from Ohio, calls a "little profile in courage." She made a speech.

It might be easy for the senator to speak to an audience. But for Mrs. Glenn, an 85% stutterer earlier in her life, it was the first full-length speech she had ever given.

"It has taken many, many, many years for me to reach the point where I am able to stand here today and give a speech," Mrs. Glenn told a luncheon for more than 300 women here.

For nearly 20 minutes she spoke slowly about her family and her life. And she talked of all the difficulties she had encountered as a stutterer and about the therapy that began six years ago at Hollins College.

"Our family has shared many first experiences," she said, "but I share with all of you here today another first that means more than I can begin to tell you."

When Mrs. Glenn's speech ended, most of the women in the room were in tears.

When her husband, who was in Washington, learned that the speech had been a success, he, too, wept. He has been witness to the years of struggling.

Mrs. Glenn was a stutterer when they began dating in the eighth grade in New Concord. The affliction had not measurably improved throughout most of their 36 years of marriage, despite periodic attempts at therapy. She is now 59 years old.

"When I would go shopping, a clerk would snicker and I would explain. Or people would ask me if I was cold," she said in an interview.

For their entire life together, until she began her treatment at Hollins, Glenn had ordered his wife's meals in restaurants and made nearly all her telephone calls. Yet she had never tried to hide the problem.

In 1964, shortly after he announced his candidacy for the Senate, Glenn suffered an ear injury when he slipped in the bathtub. His wife tried to carry on the campaign. She faced reporters, each time explaining that she was a stutterer. Glenn later withdrew from the race.

After Glenn's election in 1974, she was flooded with requests to appear around the state. In declining, she instructed the senator's aides to explain that she was a stutterer, was undergoing therapy and hoped to accept when her speech finally improved.

She insisted, in her recent interview, that her stuttering has never made her depressed. The worst thing that a stutterer can do, she said, is go into a shell and avoid contact with others.

"There are more stutterers in this world than anybody knows, and they're hiding," she said.

Several times a week, Mrs. Glenn works with a speech therapist at Walter Reed Medical Center in Washington, She also practices at home with what she calls a "black box"—a device to detect if a stutterer's speech is becoming choppy.

"I know I'll have to practice or I will digress," she said.●

PROFESSOR PIPES ON LINKAGE

● Mr. TOWER. Mr. President, on October 16, the Committee on Armed Services received the testimony of Prof. Richard Pipes of Harvard University on the SALT II Treaty. I found Professor Pipes' views to be perhaps the most thoughtful and persuasive of any witness to appear before the committee on the matter of "linkage" in United States-Soviet relations. Mr. Pipes addressed the question of the inseparability of the treaty from the broad matrix of Soviet efforts to expand their interests and treated, as well, the role of arms control in Soviet doctrine as but one more instrument for gaining advantage over the West.

Professor Pipes' very cogent analysis, based upon a distinguished career as a scholar in Marxist ideology and Soviet affairs, provides a most timely warning against those who seek to impart to the treaty a distorted significance. In addition, it provides an extremely perceptive criticism of the flaws in current administration thinking regarding Soviet purposes which are served by this treaty. According to Professor Pipes:

In Soviet calculations, SALT is not a vehicle for general disarmament—as it is with us—but a device to inhibit the United States response to Soviet long-term strategic programs.

In the Soviet view, SALT, on the most elementary level, fixes the number of United States systems and thereby facilitates the task of estimating what is required to render them harmless.

On a higher level, SALT alleviates the Soviet Union's recurrent nightmare that an American technological achievement (such as ABM or the cruise missile have been in the past) should suddenly neutralize the ponderous and incremental Soviet buildup.

Last but not least—in the Soviet outlook—SALT serves to create in the United States a political atmosphere obstructive to defense expenditures. SALT persuades much of the American public that any improvements in strategic forces are "destabilizing". SALT inhibits the U.S. government from funding weapons programs presumptively subject to becoming limited or even prohibited in later negotiations.

Professor Pipes has contributed significantly to our understanding of the dangers involved in blindly accepting the treaty, and I commend his views to all my colleagues and request that his testimony be printed in the RECORD.

The statement follows:

TESTIMONY OF PROFESSOR RICHARD PIPES

One of the more controversial aspects of SALT II involves the issue known as "linkage." The controversy is over the question whether negotiations for strategic arms control ought to proceed on their own separate track, oblivious of the broader context of American-Soviet relations, or, on the contrary, ought to be related to the overall pattern of Soviet behavior toward us and the rest of the non-Communist world. The proponents of the treaty argue that the cause of arms limitations is so singularly important that the SALT process, complicated enough as it is, ought not to be burdened by other considerations: whatever else we and the Russians may disagree over, we have an equal stake in the survival of humanity, and must seek to arrive at strategic arms limitations treaties without allowing extraneous factors to intrude.

This argument, unfortunately, does not withstand closer analysis either in its premises or its applications. Such force as it possesses derives in part from ill-considered views of the military utility of nuclear weapons, and in part from the emotional appeal exerted on many persons by every theory or pseudotheory which seems to hold out the promise of banishing the specter of nuclear disaster.

"Linkage" in my opinion is essential, though not in its trivialized form. SALT II ought not to be ratified as a "reward" to the Soviet government for its good behavior; nor ought the treaty be rejected as a means of "punishing" the Russians for such noxious actions as placing a combat brigade in Cuba. The Russians are not children and we are not their teachers. A meaningful linkage approach calls for an assessment of the entire spectrum of Soviet policies. Furthermore, it does not assume a priority that

strategic weapons ought to be isolated from all other kinds of weapons.

There is a deeply held conviction in this country, due in large measure to the memory of Hiroshima and Nagasaki, that nuclear weapons are unique not only because they can cause unprecedented destructiveness but also because no defenses exist against them: the aggressor in this instance suffers the same punishment as his victim. This view, originally articulated in the influential symposium, The Absolute Weapon, published in 1946, has dominated American thinking for a long time and to this day underpins the theory of arms limitations. It provides the intellectual and psychological support of the opposition to "linkage": for if strategic weapons are unique, then they clearly ought to be treated in a unique manner.

Now there are at least three flaws in this reasoning. Those who regard nuclear weapons as "absolute weapons" ignore, for the purpose of their argument, the possibility of limited strategic options, uses which could fall short of all-out destructiveness. They also unduly depreciate various defensive measures, including the possibility of new technology some day devising effective means of neutralizing offensive strategic weapons.

Last but not least they leave out of consideration the political leverage that inheres in nuclear superiority and that may enable the superior party to secure submission to its will without recourse to violence—this despite the fact that we have benefitted politically from just such a preponderance in the Korean War and the Cuban crisis of 1962. In other words, the alternative: arms limitations—Armageddon, is palpably false, for it leaves out of view a great variety of intermediate possibilities.

More grevious yet is the failure of the proponents of this line of argument to take into account that strategic thinking by its very nature involves at least two parties, for which reason it is not enough to develop a strategy suitable for oneself; one must adjust it to that of one's potential adversary. Unfortunately, most of American strategic thinking since World War II has been carried out in a political vacuum from which the Soviet Union has been eliminated (except as a weapons system). The notion that there can be two diverse strategies based on the same weaponry apparently strikes many of our civilian experts to be as absurd as the idea that there can be two different sciences of physics.

In fact, however, anyone who addresses himself to Soviet military literature on the subject will quickly discover that over the past twenty years the Soviet leadership has formulated a very different theory of the nature and utility of strategic weapons from ours. Whether this view is sound or not is not at issue here: what matters is that they hold it, implement it, and, in case of conflict, are likely to act on it. We can ignore this disparity of views only at the gravest risk to our national security.

The differences between our essentially defensive nuclear strategy, and the Soviet overwhelmingly offensive one stand in as sharp a contrast as the perceptions of armored warfare held, respectively, by the German and Allied high commands before World War I—with consequences that are all too familiar. I believe it was the lasting contribution of so-called "Team B," which I had the honor to chair, to have addressed itself to these questions three years ago and to have provided alternative explanations which, unorthodox as they may have seemed then, have been borne out by subsequent events.

In the Soviet view, strategic weapons are integrated into a comprehensive ideology of conflict in which military weapons constitute discrete elements of a broad spectrum of coercive instrumentalities. The place of nuclear weapons in this ideology can be elucidated by a sequence of related propositions:

1. In a world in which there exists private ownership of the means of production and, derived from it, antagonistic social classes, class conflict is both inevitable and "progressive";

2. Since October 1917, when the Soviet state came into being as the first "socialist" country in the world, all international conflicts pitting the Soviet Union against the capitalist world, headed by the United States, assume the character of class conflict;

3. The inevitable outcome of the competition between the "socialist" and "capitalist" camps will be the triumph of the former and disappearance of the latter, following which class and international conflicts will cease;

4. The competition between the two camps goes on all the time, on all levels, but ultimately it must result in war: the more positions the "socialist" camp can secure peacefully, the easier and less painful will be the attainment of final victory;

5. Strategic nuclear weapons have not upset the traditional principles of military science but they have revolutionized their application in that they make it possible to attain the ultimate strategic objective of all war, disarming the enemy, directly, in a matter of hours, instead of by a sequence of prolonged operations;

6. Should general war become unavoidable, that side will gain victory which will boldly strike in a preemptive attack; this strategy calls for a preponderant strategic force with vast strategic reserves and defensive preparations to limit damage.

In this chain of reasoning, it will be noted, nuclear weapons are seen not as "absolute weapons," endowed with some magic qualities that make them *sui generis*, but as a particularly effective means of exercising military coercion which is itself part of a historic conflict. Soviet thinking is imbedded in a network of "linkages" connecting history, economics, politics, ideology, and military hardware. The very idea that one can separate nuclear weapons from the broad range of political-military instrumentalities, and the latter from the historic conflict between socialism and capitalism, would appall any person even superficially versed in the theories of Marxism-Leninism.

If, nevertheless, the Soviet Union engages in negotiations on strategic arms limitations that in fact posit the uniqueness of strategic weapons it is because, well aware of our view of this matter, they see ample opportunities to exploit it to their advantage. If I may quote myself on this subject:

"In Soviet calculations, SALT is not a vehicle for general disarmament—as it is with us—but a device to inhibit the United States response to Soviet long-term strategic programs.

In the Soviet view, SALT, on the most elementary level, fixes the number of United States systems and thereby facilitates the task of estimating what is required to render them harmless.

On a higher level, SALT alleviates the Soviet Union's recurrent nightmare that an American technological achievement (such as ABM or the cruise missile have been in the past) should suddenly neutralize the ponderous and incremental Soviet buildup.

Last but not least—in the Soviet outlook—SALT serves to create in the United States a political atmosphere obstructive to defense expenditures. SALT persuades much of the American public that any improvements in strategic forces are "destabilizing." SALT inhibits the U.S. government from funding weapons programs presumptively subject to becoming limited or even prohibited in later negotiations."*

*"Why the Soviet Union Wants SALT II," Committee on the Present Danger, Washington, D.C., 1979.

Should SALT be linked to Soviet global behavior? It most emphatically should. After all, we practice a sort of positive "linkage" in regard to Great Britain and France, both of which possess enough strategic weapons to destroy much of the United States, but neither of which is perceived as threatening our way of life, for which reason their strategic capabilities give us no anxiety.

In the case of the Soviet Union, the threat resides not so much in the destructive power of its strategic arsenal as in its intentions toward us as manifested in word and deed. If the Russians view nuclear weapons as an intrinsic element of a broad spectrum of coercive instrumentalities, it behooves us in our dealings with them to relate nuclear weapons to Soviet overall behavior. The utility of SALT II has to be measured against a large range of indicators of Soviet intentions and actions. It must be placed against the background of relentless Soviet anti-American hate propaganda inside the Soviet Union and in the Third World; against Soviet armed interventions in Afghanistan, Ethiopia, Vietnam, and more recently, the Caribbean; against Soviet support of terrorism all over the globe; against Soviet encroachments on Norwegian territory and the militarization of the Kuriles; against the building of military highways and railroads in Eastern Europe. None of these actions in and of itself can be said to "threaten" the United States; seen in their totality, they suggest a most ominous pattern of threatening hostility.

Surely it would be imprudent to treat the nuclear balance in isolation from Soviet thinking and Soviet behavior. Linkage means that until and unless the Soviet Union radically modifies its thinking and external policies, we cannot count on SALT enhancing our security and diminishing the probability of war. These ends can be better attained by building up our strength to the point where the Soviet leadership can no longer hope to attain its global ambitions and is forced to turn inward.●

A CENTURY OF PUBLIC SERVICE

● Mr. METZENBAUM. Mr. President, on October 17, the Cuyahoga County Bar Association will pay special tribute to Harry, Helen, and the late Rebecca Auslander—three members of a remarkable Cleveland family who between them devoted a total of 104 years to the service of the people of Ohio.

The Honorable Harry Auslander, former judge of the Cleveland Municipal Court, has served as a prosecutor for the city of Cleveland, as assistant attorney general for the State of Ohio, as Ohio's deputy superintendent for insurance, as assistant director of law for the city of Cleveland, and as a trial referee for the Cleveland Municipal Court. He remains active as special counsel to the attorney general of Ohio, a post he has held since 1977.

But while pursuing his distinguished legal career, Harry Auslander has over the years contributed his time and talent to the betterment of his community.

He has served as president of the Cuyahoga County Bar Association, president of the Hungarian Social and Benevolent Union, president of Cleveland Lodge of B'nai B'rith and was twice chancellor of the Tau Epsilon Rho Law Fraternity. In all these activities Harry Auslander has displayed the diligence, competence, and integrity for which he is so widely known and respected in Cleveland and in Ohio at large.

His sister, Helen Auslander, has also

had a distinguished career in public service.

For 37 years, Ms. Auslander served as deputy clerk of the common pleas court of Cuyahoga County. Her work in that capacity brought her the public servants merit award of the Cuyahoga County Bar Association, and tributes from the Ohio Senate, the Ohio House, the Cleveland City Council and the mayor of her native city.

A third member of this outstanding family—the late Rebecca Auslander—worked for over 30 years in the auditing department of the Ohio Bureau of Employment Services. Upon her retirement in 1972, she was honored by then Gov. John Gilligan with a Governor's award for "loyal, faithful and meritorious service."

Mr. President, I know that it is fashionable today to cast aspersions upon those who choose careers in local, State, and Federal Government. But I believe that the example of the Auslander family demonstrates that devoted public service should be the object to public appreciation. I commend the Cuyahoga County Bar Association for recognizing the Auslanders and I join them in expressing my sincere good wishes to Harry and Helen Auslander for health and happiness in the future.●

THE ANGUISH OF CENTRAL BANKING

● Mr. GARN. Mr. President, events of the last week and a half have focused attention on the important role which the Federal Reserve plays in the fortunes or misfortunes of our Nation's economy. The actions taken by the Federal Reserve on October 6 reaffirmed the importance of monetary policy in the process of combating inflation. Those actions were bold and dramatic, yet essential if our nation is to achieve price stability at an early date.

The role of the Federal Reserve in this process is not always understood, however. Nor are the problems facing the monetary authorities always fully appreciated.

The difficult tasks facing our nation's central bank was outlined recently by Arthur F. Burns in a speech entitled "The Anguish of Central Banking." Dr. Burns made this speech on September 30, 1979, in Belgrade, Yugoslavia.

Dr. Burns' speech is a useful and timely discourse on the role of central banking in a modern, industrialized nation. It is a candid appraisal of the achievements and failures of central banking in this country. I found particularly refreshing Dr. Burns' admission that "* * * despite their antipathy to inflation and the powerful weapons they could yield against it, central bankers have failed so utterly in their mission in recent years." In this paradox, Dr. Burns says, "lies the anguish of central banking."

In light of the actions taken recently by the Federal Reserve, I also found it comforting to know that Dr. Burns agrees that drastic action needs to be taken to reduce the rate of inflation. He stated in his speech:

In view of the strong and widespread expectations of inflation that prevail at present, I have therefore reluctantly come to believe that fairly drastic therapy will be needed to turn inflationary psychology around.

I commend Dr. Burn's speech to my colleagues, and I ask that it be printed in the RECORD.

The speech follows:

THE ANGUISH OF CENTRAL BANKING

(By Arthur F. Burns)

When I was invited several months ago to deliver this year's Per Jacobsson Lecture, I found it easy to give my consent. Per Jacobsson was a financial statesman whose efforts in behalf of world economic order deserve to be remembered by this distinguished audience. I feel I can honor his memory best by presenting on this occasion some straightforward thoughts on central banking.

The international monetary system, which has been in almost constant turmoil during this decade, has benefited recently from several developments. Under the amended Articles of Agreement, the International Monetary Fund can exercise firm surveillance over the exchange rate policies of its members, and is therefore now in a position to move the nations of the world toward a rule of law in international monetary affairs. Another promsing development is the establishment of the European Monetary System with the aim of maintaining relatively stable exchange rates within the Common Market.

A third positive development is recognition by the United States that the persisting deficits in its international current account must be eliminated, and that in the meantime decisive intervention to protect the external value of the dollar may well be needed. The conventional theory that a depreciating currency is beneficial to a nation's foreign trade and to its over-all economic activity has lost its appeal within the American government. The officials concerned with economic policy have learned that whatever merit may in some circumstances attach to this theory, it is a dangerous guide for a country whose currency is still the centerpiece of the international monetary system. "Benign neglect" of the external value of the dollar came to an end dramatically, and I would hope irrevocably, last November.

This and other constructive developments suggested earlier this year that a closer approach to international equilibrium was under way and calm returned for a while to foreign exchange markets. But uneasiness about the monetary system, particularly about the future of the dollar, has continued and in fact intensified this summer. There have been ample reasons for concern—among them, the political convulsions in Iran, the enormous new increases in oil prices by OPEC, the narrowing at times of interest-rate differentials between New York and foreign moneymarket centers, and the limited progress in developing an effective energy policy in the United States. While all these factors contributed to nervousness, what has been most disturbing to foreign exchange markets in recent months is the reacceleration of inflation in the United States and in much of the rest of the world. Even Germany and Switzerland no longer qualify as islands of stability.

This unhappy development is one more indication, if any were needed, that the current instability in international finance is largely a consequence of the chronic inflation of our times and that stability will not return to the international monetary system until reasonably good control over inflationary forces has been achieved in the major industrial nations—and especially in the United States. This critical consideration at once raises serious questions. Why is the worldwide disease of inflation proving so stubborn? Why is it not yielding to the various efforts of the affected nations, including some determined efforts, to bring it to an end? Why, in particular, have central bankers, whose main business one might suppose is to fight inflation, been so ineffective in dealing with this world-wide problem?

To me, as a former central banker, the last of these questions is especially intriguing. One of the time-honored functions of a central bank is to protect the integrity of its nation's currency, both domestically and internationally. In monetary policy central bankers have a potent means for fostering stability of the general price level. By training, if not also by temperament, they are inclined to lay great stress on price stability, and their abhorrence of inflation is continually reinforced by contacts with one another and with like-minded members of the private financial community. And yet, despite their antipathy to inflation and the powerful weapons they could wield against it, central bankers have failed so utterly in this mission in recent years. In this paradox lies the anguish of central banking.

My aim today is to consider the causes of this paradox and its implications for the future. Much of what I say will inevitably reflect lessons that I learned during my service as Chairman of the Federal Reserve Board over an eight-year period that ended about eighteen months ago. This may be a good time to reflect on that experience; a year ago I was probably too close to it to have the necessary perspective, and a year from now the sharpness of my impressions may have begun to fade.

I shall focus mainly, although not exclusively, on the United States. That is the area that I know best, and I also believe the American experience—despite some unique aspects—is fairly representative of that of other industrial countries. The developing nations have their own characteristic sources and patterns of inflation. Nevertheless, in our interdependent world, economic conditions in the United States and other industrial countries are bound to have a significant bearing on the fortunes of developing countries.

By way of introduction, I might note that during much of the period since the end of World War II, over-all economic developments were, in the main, satisfactory. By prewar standards, recessions were brief and mild through the mid-1960's, both in the United States and in other industrial countries; world trade expanded rapidly under a beneficent regime of stable exchange rates; and living standards rose impressively throughout the developed world. In most industrial countries inflationary pressures were troublesome from time to time—as in the immediate postwar years, during the Korean hostilities, and for a couple of years after the mid-1950's. These pressures were more substantial in some countries than in the United States, but in none did inflation appear to be out of control.

From 1958 through 1964, the United States enjoyed a remarkable degree of price stability. During that stretch of six years, the wholesale price index remained virtually unchanged and the consumer price index rose at an annual rate of only a little more than one percent. And then the inflation that has ever since been plaguing the American economy got under way. Average wholesale prices rose at an annual rate of 2 percent from 1964 to 1968, 4 percent from 1968 to 1972, and 10 percent from 1972 to 1978. This pattern of accelerating price increases is found in other countries also, although rates of increase have varied widely, and in most industrial nations the acceleration began later—typically in 1969 or 1970.

Analyses of the inflation that the United States has experienced over the past fifteen years frequently proceed in three stages. First

are considered the factors that launched inflation in the mid-1960's, particularly the governmental fine tuning inspired by the New Economics and the loose financing of the war in Vietnam. Next are considered the factors that led to subsequent strengthening of inflationary forces, including further policy errors, the devaluations of the dollar in 1971 and 1973, the world-wide economic boom of 1972–73, the crop failures and resulting surge in world food prices in 1973–74, the extraordinary increases in oil prices that became effective in 1974, and the sharp deceleration of productivity growth from the late 1960's onward. Finally, attention is turned to the process whereby protracted experience with inflation has led to widespread expectations that it will continue in the future, so that inflation has acquired a momentum of its own.

I have no quarrel with analyses of this type. They are distinctly helpful in explaining the American inflation and, with changes here and there, that in other nations also. At the same time, I believe that such analyses overlook a more fundamental factor, the persistent inflationary bias that has emerged from the philosophic and political currents that have been transforming economic life in the United States and elsewhere since the 1930's. The essence of the unique inflation of our times and the reason central bankers have been ineffective in dealing with it can be understood only in terms of those currents of thought and the political environment they have created.

Historically, Americans have had deep faith in the concept of progress—in the idea that it was realistic to expect to better one's own lot and that of one's family in the course of a lifetime. During the greater part of America's history, government intervention in economic life was only peripheral. Personal progress was generally viewed as a reward for personal effort—assisted, perhaps, by good fortune. Provision for bad times or other contingencies of life was deemed prudent, but that was a private responsibility. The American's way through life lay along the road of self-reliance; only in extremity did he look to government or his neighbors for economic assistance.

This tradition of individualism was shattered by the cataclysmic events of the 1930's and 1940's. The breakdown of economic order during the Great Depression was unprecedented in its scale and scope, and it strained the precept of self-reliance beyond the breaking point. With one-quarter of the labor force unemployed, personal courage and moral stamina could guarantee neither a job nor a livelihood. Succor finally came through a political idea that was novel to a majority of the American people but compelling nonetheless; namely, that the Federal government had a far larger responsibility in the economic sphere than it had hitherto assumed.

Under the New Deal the Federal government undertook extensive projects of public construction and offered work relief as well. It gave direct relief to the needy—a function previously performed only by local authorities or private charity. It established unemployment insurance and old-age pensions. It took steps to raise wages and prices with a view to fostering economic recovery. And beyond these innovative actions, the Federal government greatly extended the range of its regulatory activities. It intervened massively in the securities market, in banking, in the public utilities industry, in the housing market, and in the farm sector; and it gave labor unions broad new rights and powers. Together, these and other New Deal measures laid the foundations of an activist government—a government responsible not only for relieving suffering and insuring against economic adversity, but also for limiting "harmful" competition, subsidizing "worthwhile" activities, and redressing unequal balances of market power. In less than a decade the government became a leading actor on the economic stage.

Just as Americans were persuaded during the depression that the Federal government should help the unemployed, so they were taught by the experience of World War II to look to government to prevent unemployment in the first place. Under the compulsions of war, the government had demonstrated that it could assure gainful employment for every willing hand. It therefore seemed reasonable, and not only to the followers of Keynes, to expect government to do the same in a time of peace. In 1944, when President Roosevelt set forth the basis of his postwar domestic program in an "Economic Bill of Rights", he put "the right to a useful and remunerative job" at the head of the list. With the war ended, the Employment Act of 1946 explicitly proclaimed the Federal government's responsibility to promote "maximum employment", and this came to mean "full employment" as a matter of law as well as popular usage.

Armed with the Employment Act, the government sought to demonstrate that it could combat unemployment with preventive as well as curative measures. In fact, the period from World War II to the mid-1960's was marked not only by a dampening of the business cycle but also by persistent increases in the prosperity of American families. On the one side, rising incomes, reflecting substantial gains in labor productivity, made possible rising consumption, greater leisure, and better provision for retirement. On the other side, a steady stream of new and often improved consumer goods tended to sustain the growth of aggregate demand. The extensive development of consumer credit institutions made it easier for people to acquire automobiles, household appliances, and other goods and services, the desire for which was continually being whetted by alluring advertisements and the illustration of potential life styles broadcast by television and the movies. The seemingly inexorable rise in living standards for the bulk of the population was reflected in upward trends in the proportion of families that owned their own home, that owned a summer home, that possessed one, two and even three automobiles that had telephones, that owned television sets, clothes washers, and food freezers; also in the proportion of the population that had graduated from high school and from college, that traveled abroad, that owned corporate stock, that carried life insurance, and so on.

This experience of economic progress strengthened the public's expectations of progress. What had once been a quiet personal feeling that the long future would be better than the past, particularly for one's children, was transformed during the postwar years into an articulate and widespread expectation of steady improvement in living standards—indeed, to a feeling of entitlement to annual increases in real income.

But the rapid rise in national affluence did not create a mood of contentment. On the contrary, the 1960's were years of social turmoil in the United States, as they were in other industrial democracies. In part, the unrest reflected discontent by blacks and other minorities with prevailing conditions of social discrimination and economic deprivation, a discontent that erupted during the "hot summers" of the middle 1960's in burning and looting. In part, the social unrest reflected growing feelings of injustice by or on behalf of other groups—the poor the aged, the physically handicapped, ethnics, farmers, blue collar workers, women, and so forth. In part, the unrest reflected a growing rejection by middle-class youth of prevailing institutions and cultural values. In part, it reflected the more or less sudden recognition by broad segments of the population that the economic reforms of the New Deal and the more recent rise in national affluence had left untouched problems in various areas of American life—social, political, economic, and environmental. And interacting with all these sources of social disturbance were the heightening tensions associated with the Vietnam War.

In the innocence of the day, many Americans came to believe that all of the new or newly discovered ills of society should be addressed promptly by the Federal government. And in the innocence of the day, the administration in office attempted to respond to the growing demands for social and economic reform while waging war in Vietnam on a rising scale. Under the rubric of the New Economics, a more activist policy was adopted for the purpose of increasing the rate of economic growth and reducing the level of unemployment. Under the rubrics of the New Frontier and the Great Society, broad-scale efforts were made to stitch up open seams in the fabric of affluence—inadequate or unequal education, housing, medical care, nutrition. Under the rubrics of civil rights and citizen participation, minorities and other disadvantaged groups were given political weapons to maintain, consolidate, and extend their gains.

The interplay of governmental action and private demands had an internal dynamic that led to their concurrent escalation. When the government undertook in the mid-1960's to address such "unfinished tasks" as reducing frictional unemployment, eliminating poverty, widening the benefits of prosperity, and improving the quality of life, it awakened new ranges of expectation and demand. Once it was established that the key function of government was to solve problems and relieve hardships—not only for society at large but also for troubled industries, regions, occupations, or social groups—a great and growing body of problems and hardships became candidates for governmental solution. New techniques for bringing pressure on Congress—and also on the State's legislatures and other elected officials—were developed, refined, and exploited. Congress responded by pouring out a broad stream of measures that involved government spending, special tax relief, or regulations mandating private spending. Every demonstration of a successful tactic in securing rights, establishing entitlements, or extracting other benefits from government led to new applications of that tactic. Various groups found a powerful ally in the Federal courts, which repeatedly struck down legislative or administrative limitations on access to government benefits. Even government employees, particularly at the state and municipal levels, discovered the pecuniary rewards of shedding genteel notions of public service and pressing economic demands with a strident militancy.

Many results of this interaction of government and citizen activism proved wholesome. Their cumulative effect, however, was to impart a strong inflationary bias to the American economy. The proliferation of government programs led to progressively higher tax burdens on both individuals and corporations. Even so, the willingness of government to levy taxes fell distinctly short of its propensity to spend.

Since 1950 the Federal budget has been in balance in only five years. Since 1970 a deficit has occurred in every year. Not only that, but the deficits have been mounting in size. Budget deficits have thus become a chronic condition of Federal finance; they have been incurred when business conditions were poor and also when business was booming. But when the government runs a budget deficit, it pumps more money into the pocketbooks of people than it withdraws from their pocketbooks; the demand for goods and services therefore tends to increase all around. That is the way the inflation that has been raging since the mid-1960's first got started and later kept being nourished.

The pursuit of costly social reforms often went hand in hand with the pursuit of full employment. In fact, much of the expanding range of government spending was prompted by the commitment to full employment. Inflation came to be widely viewed as a temporary phenomenon—or, provided it remained mild, as an acceptable condition. "Maximum" or "full" employment, after all, had become the nation's major economic goal—not stability of the price level. That inflation ultimately brings on recession and otherwise nullifies many of the benefits sought through social legislation was largely ignored. Even conservative politicians and businessmen began echoing Keynesian teachings. It therefore seemed only natural to Federal officials charged with economic responsibilities to respond quickly to any slackening of economic activity—at times, in fact, as in the early days of 1977, to sheer illusions of such slackening—but to proceed very slowly and cautiously in responding to evidence of increasing pressure on the nation's resources of labor and capital. Fear of immediate unemployment—rather than fear of current of eventual inflation—thus came to dominate economic policy making.

This weighting of the scales of government policy inevitably gave an inflationary twist to the economy, and so too did the expanding role of government regulation. Traditional ways of protecting particular groups against competition—such as raising farm price supports, increasing minimum wages, and imposing import quotas—did not lose their appeal as inflation kept soaring. On the contrary, all these devices of raising costs and prices were liberally employed even in the face of accelerating inflation during 1977 and 1978. Also troublesome were the newer social regulations—those concerned with health, safety, and the environment—that kept multiplying during the 1970's.

However laudable in purpose, much of this regulatory apparatus was conceived in haste and with little regard to the costs being imposed on producers. Substantial amounts of capital that might have gone into productivity-enhancing investments by private industry were thus diverted into uses mandated by the regulators. Improvements in productivity were also slowed by the discouragement of business investment that resulted from the increasing burden of income and capital-gains taxes. Progress in equipping the work force with new plant and equipment proceeded much less rapidly during the 1970's than during the 1950's or 1960's, and this shortfall contributed to the productivity slump and thus to the escalation of costs and prices.

Additional forces on the side of supply contributed to the inflationary bias. As the income maintenance programs established by government were liberalized, incentives to work tended to diminish. Some individuals, both young and old, found it agreeable to live much of the time off unemployment insurance, food stamps, and welfare checks—perhaps supplemented by intermittent jobs in an expanding underground economy. Even enterprising and ambitious individuals who sought permanent jobs could be more leisurely or more discriminating in their search when the government, besides pursuing a full employment policy, provided a protective income umbrella during jobless periods. In such an environment, employed workers could demand and often achieve longer vacations with pay and more frequent holidays and sick leave, besides enjoying coffee breaks and other social rites on the job. In such an environment, they could afford to reject a pay cut or a small wage increase when their employer pleaded serious financial difficulties. Thus the number of individuals counted as unemployed could rise even at times when job vacancies, wages, and the consumer price level were rising.

The philosophic and political currents that transformed economic life and brought on secular inflation in the United States have run strong also in other industrial countries. Rising economic expectations of people, wider citizen participation in the political arena, governmental commitments to full employment, liberal income maintenance programs, expanding governmental regulations, and increasingly pressing demands on government for the solution of economic and social problems—all these became common features of the industrial democracies. And just as the rapid expansion of government activities in the United States was accompanied by persistent budget deficits and inflation, that too happened in other industrial countries. Indeed, other countries have often practiced loose governmental finance and inflation on a more intensive scale than has the United States.

And so I finally come to the role of central bankers in the inflationary process. The world-wide philosophic and political trends on which I have been dwelling inevitably affected their attitudes and actions. In most countries, the central bank is an instrumentality of the executive branch of government—carrying out monetary policy according to the wishes of the head of government or the ministry of finance. Some industrial democracies, to be sure, have substantially independent central banks and that is certainly the case in the United States. Viewed in the abstract, the Federal Reserve System had the power to abort the inflation at its incipient stage fifteen years ago or at any later point, and it has the power to end it today. At any time within that period, it could have restricted the money supply and created sufficient strains in financial and industrial markets to terminate inflation with little delay. It did not do so because the Federal Reserve was itself caught up in the philosophic and political currents that were transforming American life and culture.

The Employment Act prescribes that "it is the continuing policy and responsibility of the Federal government to . . . utilize all its plans, functions, and resources . . . to promote maximum employment." The Federal Reserve is subject to this provision of law, and that has limited its practical scope for restrictive actions—quite apart from the fact that some members of the Federal Reserve family had themselves been touched by the allurements of the New Economics. Every time the government moved to enlarge the flow of benefits to the population at large, or to this or that group, the assumption was implicit that monetary policy would somehow accommodate the action. A similar tacit assumption was embodied in every pricing decision or wage bargain arranged by private parties or the government. The fact that such actions could in combination be wholly incompatible with moderate rates of monetary expansion was seldom considered by those who initiated them, despite the frequent warnings by the Federal Reserve that new fires of inflation were being ignited. If the Federal Reserve then sought to create a monetary environment that fell seriously short of accommodating the upward pressures on prices that were being released or reinforced by governmental action, severe difficulties could be quickly produced in the economy. Not only that, the Federal Reserve would be frustrating the will of Congress to which it was responsible—a Congress that was intent on providing additional services to the electorate and on assuring that jobs and incomes were maintained, particularly in the short run.

Facing these political realities, the Federal Reserve was still willing to step hard on the monetary brake at times—as in 1966, 1969, and 1974—but its restrictive stance was not maintained long enough to end inflation. By and large, monetary policy came to be governed by the principle of undernourishing the inflationary process while still accommodating a good part of the pressures in the marketplace. The central banks of other industrial countries, functioning as they did in a basically similar political environment, appear to have behaved in much the same fashion.

In describing as I just have the anguish of central banking in a modern democracy, I do not mean to suggest that central bankers are free from responsibility for the inflation that is our common inheritance. After all, every central bank has some room for discretion, and the range is considerable in the more independent central banks. As the Federal Reserve, for example, kept testing and probing the limits of its freedom to undernourish the inflation, it repeatedly evoked violent criticism from both the Executive establishment and the Congress and therefore had to devote much of its energy to warding off legislation that could destroy any hope of ending inflation. This testing process necessarily involved political judgments, and the Federal Reserve may at times have overestimated the risks attaching to additional monetary restraint.

Any such errors of political judgment are extremely hard to identify; but I believe, in any event, that errors of economic or financial judgment have in practice been far more significant. In a rapidly changing world the opportunities for making mistakes are legion. Even facts about current conditions are often subject to misinterpretation. Statistics on unemployment in the United States provide a good example. Even before World War II ended, some economists were trying to determine how much frictional and structural unemployment would exist when the demand for labor and the supply of labor were in balance; in other words, the rate of unemployment that would reflect a state of full employment. Before long, a broad consensus developed that an unemployment rate of about 4 percent corresponded to a practical condition of full employment, and that figure became enshrined in the economic writing and policy making.

Conditions in labor markets, however, did not stand still. A huge influx of women and young people into the labor force, the liberalization of unemployment insurance, the spread of welfare programs, the progressive lifting of statutory minimum wages, the increasing proportion of families having more than one worker, and the increase of national affluence itself—all these changes in the economic and social environment served to render the conventional 4 percent figure obsolete. The unemployment rate corresponding to full employment is now widely believed to be about 5½ or 6 percent, and this year's report of the Council of Economic Advisers appears to concur in that judgment. But governmental policy makers, while generally aware of what was happening in the labor market, were slow to recognize the changing meaning of unemployment statistics, whether viewed as a measure of economic performance or as a measure of hardship. The Federal Reserve did not escape this lag of recognition and, once again, I believe that other central banks at times have made similar mistakes.

While misinterpretations of unemployment statistics or other current information have consequences for all public policy making, there are other problems of interpretation to which the central banker's calling is peculiarly subject. Monetary theory is a controversial area. It does not provide central bankers with decision rules that are at once firm and dependable. To be sure, every central banker has learned from the world's experience than an expanding economy requires expanding supplies of money and

credit, that excessive creation of money will over the longer run cause or validate inflation, and that declining interest rates will tend to stimulate economic expansion while rising interest rates will tend to restrict it; but this knowledge stops short of mathematical precision.

Partly as a result of the chronic inflation of our times, central bankers have been giving closer attention to the money supply than did their predecessors; but they continue to be seriously concerned with the behavior of interest rates. They face difficult questions about the relative weight to be given to measures of money and interest rates in this short run and long run; about the concept or concepts of money that are most significant for policy purposes; about the interpretation of such developments as the growth of Eurocurrency deposits and credits; about the length and regularity of the lags with which changes in monetary growth rates influence business activity and prices; about the likely changes in monetary velocity as a consequence of institutional innovations and business-cycle developments; and so on and on—as any student of central banking and monetary theory well knows. And there are more fundamental problems about potential conflicts between domestic and international objectives, about the appropriate response to exceptional events not encompassed by theory, and about the precise relevance of any theory based on past experience to a world where behavioral patterns are continually evolving.

It is clear, therefore, that central bankers can make errors—or encounter surprises—at practically every stage of the process of making monetary policy. In some respects, their capacity to err has become larger in our age of inflation. They are accustomed, as are students of finance generally, to think of high and rising market interest rates as a straining force on economic expansion. That rule of experience, however, tends to break down once expectations of inflation become widespread in a country. At such a time, lenders expect to be paid back in cheaper currency, and they are therefore apt to demand higher interest rates. Since borrowers have similar expectations, they are willing to comply. An "inflation premium" thus gets built into nominal interest rates. In principle, no matter how high the nominal interest rate may be, as long as it stays below or only slightly above the inflation rate, it very likely will have perverse effects on the economy; that is, it will run up costs of doing business but do little or nothing to restrain overall spending. In practice, since inflationary expectations, and therefore the real interest rates implied by any given nominal rate, vary among individuals, central bankers cannot be sure of the magnitude of the inflation premium that is built into nominal rates. In many countries, however, these rates have at times in recent years been so clearly below the ongoing inflation rate that one can hardly escape the impression that, however high or outrageous the nominal rates may appear to observers accustomed to judging them by a historical yardstick, they have utterly failed to accomplish the restraint that central bankers sought to achieve. In other words, inflation has often taken the sting out of interest rates—especially, as in the United States, where interest payments can be deducted for income tax purposes.

In addition to these direct effects of inflation, there are other effects that raise doubts about the meaning of particular growth rates of the monetary aggregates. I have in mind changes in financial practices that evolved in the United States during the 1960's—particularly during the bouts with tight money in 1966 and 1969—and that culminated in an explosion of financial innovations in the 1970's.

Many of these changes were facilitated by regulatory actions or the development of new computer technology. But the driving force behind them was the incentive that sharply rising market interest rates gave to financial institutions and their customers to change their ways of doing business. Commercial banks responded to rising rates by economizing on non-interest-bearing reserves, and their customers responded by economizing on non-interest-bearing demand deposits. Both banks and large corporations developed new sources of funds in the Euro-dollar market and the domestic commercial paper market. Banks developed new techniques of liability management by exploiting these sources as well as the vast potential of the Federal funds market and the market for negotiable certificates of deposit. Other financial institutions—including savings banks, savings and loan associations, credit unions, and money market mutual funds—developed new transactions services in connection with customer accounts on which they paid interest. Banks fought this competition for transactions balances by offering large depositors special services that reduced the average level of balances they had to carry and by employing various ingenious means to pay interest on balances that were held in large part for transactions purposes.

Developments of these kinds have had profound consequences for the environment in which American monetary policy operates. Not long ago, the thrust of monetary restraint was conveyed more by reductions in the availability of credit—particularly residential mortgage credit—than by rising interest rates; at present, rising interest rates are the primary channel of restraint. This means that a higher level of interest rates is required to achieve any given degree of restraint—quite apart from the effect of inflation premiums that I discussed earlier. But how much higher is not clear; only time will tell. Not long ago, changes in M–1, the familiar monetary aggregate confined to currency and demand deposits, reflected reasonably well changes in the aggregate volume of transactions balances; at present, with new alternatives to bank demand deposits emerging all the time, a lower rate of growth in M–1 is required to achieve any given degree of restraint. But how much lower is not clear; only time will tell. Nor is it clear what other monetary aggregate, if any, would be more serviceable than the traditional M–1 as a monetary indicator. As a result of these effects of inflation, central banking has not only lost its moorings in interest rates; that has happened to a large extent also in the case of the monetary aggregates—certainly in the United States and perhaps in other countries as well.

There is no need to expand further on the opportunities for misjudgment that in recent years have surrounded policy making at central banks. Some uncertainty, of course, has always characterized monetary policy, just as it has characterized policy decisions generally, whether in public or private life. It should be noted, however, that lags in recognizing some of the developments I have been discussing—with respect to unemployment rates, interest rates, and growth rates of the monetary aggregates—would tend to bias policy toward monetary ease. Moreover, the emergence of an inflationary psychology in industrial countries has imparted an asymmetry to the consequences of monetary errors, even if the errors themselves occurred as often in one direction as the other.

There is a profound difference between the effects of mistaken judgments by a central bank in our age of inflation and the effects of such judgments a generation or two ago. In earlier times, when a central bank permitted excessive creation of money and credit in times of prosperity, the price level would indeed tend to rise. But the resulting inflation was confined to the expansion phase of the business cycle; it did not persist or gather force beyond that phase. Therefore, people generally took it for granted that the advance of prices would be followed by a decline once a business recession got under way. That is no longer the case.

Nowadays, businessmen, farmers, bankers, trade union leaders, factory workers, and housewives generally proceed on the expectation that inflation will continue in the future, whether economic activity is booming or receding. Once such a psychology has become dominant in a country, the influence of a central bank error that intensifies inflation may stretch out over years, even after a business recession has set in. For in our modern environment, any rise in the general price level tends to develop a momentum of its own. It stimulates higher wage demands which are accommodated by employers who feel they can recover the additional costs through higher prices; it results in labor agreements in key industries that call for substantial wage increases in later years without regard to the state of business then; and through the use of indexing formulas, it leads to automatic increases in other wages as well as in social security payments, various other pensions, welfare benefits, also in rents on many properties and in the prices of many commodities acquired under long-term contracts. On the other hand, unintended central bank effects of a restrictive type do not ramify in similar fashion.

To develop any significant momentum in unwinding inflation, they would need to be both large and repetitive—a combination that can hardly occur under prevailing conditions in the industrial democracies.

If my analysis of central banking in the modern environment is anywhere near the mark, two conclusions immediately follow. First, central banks have indeed been participants in the inflationary process in which the industrial countries have been enmeshed, but their role has been subsidiary. Second, while the making of monetary policy requires continuing scrutiny and can stand considerable improvement, it is vain to look to technical reforms as a way of eliminating the inflationary bias of industrial countries. What is unique about our inflation is its stubborn persistence, not the behavior of central bankers. This persistence reflects the fundamental forces on which I dwelt earlier in this address—namely, the philosophic and economic currents of thought that have impinged on economic life since the Great Depression and particularly since the mid-1960's.

My conclusion that it is illusory to expect central banks to put an end to the inflation that now afflicts the industrial democracies does not mean that central banks are incapable of stabilizing actions; it simply means that their practical capacity for curbing an inflation that is continually driven by political forces is very limited. Historically, central banks have helped to slow down the pace of economic activity at certain times and to stimulate economic activity at other times. They have also contributed to economic stability by serving as lenders of last resort or even going beyond that traditional function. During this decade alone, the Federal Reserve moved on at least two occasions to prevent financial crisis that otherwise could easily have occurred.

I have in mind particularly the failure of the Penn Central Transportation Company in June 1970 and the failure of the Franklin National Bank in October 1974. In the former case the inability of Penn Central to refinance its outstanding commercial paper caused consternation among holders of commercial paper generally. To prevent a financial panic the Federal Reserve put aside its monetary targets for a while, opened

the discount window wide, and changed its regulations so that commercial banks could raise funds in the open market to finance firms unable to renew their maturing commercial paper.

In the Franklin National case, the Federal Reserve loaned to that troubled international bank almost 2 billion dollars; and while these advances were outstanding it was possible to arrange a takeover by another bank that protected the interests of Franklin's depositors and customers. These actions were influenced by a feeling of responsibility for the financial system as a whole—international as well as domestic. The central banks of some other countries, notably the Bank of England, have likewise discharged constructively the function of serving as lenders of last resort, and the entire concept of central bank responsibility has been both widened and clarified through discussion in recent years at the Bank for International Settlements.

All this and much more deserves to be noted about central banks—especially their tireless efforts to awaken the citizens of their respective countries to the economic and social dangers posed by inflation. But whatever the virtues or shortcomings of central banks may be, the fact remains that they alone will be able to cope only marginally with the inflation of our times. The persistent inflation that plagues the industrial democracies will not be vanquished—or even substantially curbed—until new currents of thought create a political environment in which the difficult adjustments required to end inflation can be undertaken.

There are some signs, as yet tenuous and inconclusive, that such a change in the intellectual and political climate of the democracies is getting under way. One of the characteristic features of a democracy is that it encourages learning from experience. Recent disturbing trends in economic and social life, particularly the persistence and acceleration of inflation, have led to much soul-searching by leaders of thought and opinion.

Among economists, the Keynesian school has lost much of its erstwhile vigor, self-confidence, and influence. Economists are no longer focusing so exclusively on unemployment and governmental management of aggregate demand. They are paying more attention to the management of aggregate supply—to the need to strengthen incentives to work and innovate, to ways of stimulating saving and investment, to the importance of eliminating barriers to competition, to ways of reducing the regulatory burdens imposed on industry, and to other means of bolstering business confidence.

Many economists now recognize that much of reported unemployment is voluntary, that curbing inflation and reducing involuntary unemployment are complementary rather than competitive goals, that persistent governmental deficits and excessive creation of money tend to feed the fires of inflation, that the high savings rate that usually prevails in the early stages of inflation is eventually succeeded by minimal savings, and that when this stage is reached it becomes very much harder to bring inflation under control.

The intellectual ferment in the world's democracies is having its influence not only on businessmen and investors, but also on politicians, trade union leaders, and even housewives; for all of them have been learning from experience and from one another. In the United States, for example, people have come to feel in increasing numbers that much of the government spending sanctioned by their compassion and altruism was falling short of its objectives; that urban blight was continuing, that the quality of public schools was deteriorating, that crime and violence were increasing, that welfare cheating was still widespread, that collecting unemployment insurance was becoming a way of life for far too many—in short, that the relentless increases of government spending were not producing the social benefits expected from them and yet were adding to the taxes of hard-working people and to the already high prices they had to pay at the grocery store and everywhere else. In my judgment, such feelings of resentment and frustration are largely responsible for the conservative political trend that has developed of late in the United States.

And I gather from the results of recent elections elsewhere that concern about inflation and disenchantment with socialist solutions are increasing also in other industrial countries. Fighting inflation is therefore being accorded a higher priority by policy makers in Europe and in much of the rest of the world.

In the United States a great majority of the public now regard inflation as the Number One problem facing the country, and this judgment is accepted by both the Congress and the Executive establishment. Some steps have therefore been taken within the past year to check the rapid rise of Federal spending, to lower certain taxes in the interest of encouraging business investment, and yet bring down the still large budget deficit. Pressures to augment the privileges of trade unions have been resisted by the Congress. Some government regulations—as in the case of airlines and crude oil—have been eased. And even restrictive moves by the Federal Reserve, which not long ago would have stirred anger and anxiety in government circles, have been accepted with equanimity. Symbolic of the changed political atmosphere was the announcement of an increase in the Federal Reserve discount rate on the very day this July when a sizable decline of the nation's over-all production was being reported for the spring quarter.

The present widespread concern about inflation in the United States is an encouraging development, but no one can yet be sure how far it will go or how lasting it will prove. The changes that have thus far occurred in fiscal, monetary, and structural policies have been marginal adjustments. American policy makers tend to see merit in a gradualist approach because it promises a return to general price stability—perhaps with a delay of five or more years but without requiring significant sacrifices on the part of workers or their employers. But the very caution that leads politically to a policy of gradualism may well lead also to its premature suspension or abandonment in actual practice. Economic life is subject to all sorts of surprises and disturbances—business recessions, labor unrest, foreign troubles, monopolistic shocks, elections, and governmental upsets. One or another such development, especially a business recession, could readily overwhelm and topple a gradualist timetable for curbing inflation. That has happened in the past and it may happen again.

If the United States and other industrial countries are to make real headway in the fight against inflation it will first be necessary to rout inflationary psychology—that is, to make people feel that inflation can be, and probably will be, brought under control. Such a change in national psychology is not likely to be accomplished by marginal adjustments of public policy. In view of the strong and widespread expectations of inflation that prevail at present, I have therefore reluctantly come to believe that fairly drastic therapy will be needed to turn inflationary psychology around.

The precise therapy that can serve a nation best is not easy to identify, and what will work well in one country may work poorly in another. In the case of the American inflation, which has become a major threat to the well-being of much of the world as well as of the American people, it would seem wise to me at this juncture of history for the government to adopt a basic program consisting of four parts. The first of these would be a legislative revision of the Federal budgetary process that would make it more difficult to run budget deficits and that would serve as the initial step toward a constitutional amendment directed to the same end. The second part would be a commitment to a comprehensive plan for dismantling regulations that have been impeding the competitive process and for modifying others that have been running up costs and prices unnecessarily. The third part would be a binding endorsement of restrictive monetary policies until the rate of inflation has become substantially lower. And the fourth part would consist of legislation scheduling reductions of business taxes in each of the next five years—the reduction to be quite small in the first two years but to become substantial in later years. This sort of tax legislation would release powerful forces to improve the nation's productivity and thereby exert downward pressure on prices; and it would also help in the more immediate future to ease the difficult adjustments forced on many businesses and their employees by the adoption of the first three parts of the suggested program.

I wish I could close this long address by expressing confidence that a program along the lines I have just sketched, or any other constructive and forceful program for dealing with inflation, will be undertaken in the near future in the United States or elsewhere. That I cannot do today. I am not even sure that many of the central bankers of the world, having by now become immured to gradualism, would be willing to risk the painful economic adjustments that I fear are ultimately unavoidable. I would therefore not be surprised if the return to reasonable price stability in the industrial democracies and thereby to an orderly international monetary system is postponed by more false starts. But if political patience in individual countries is severely tested as that happens, the learning process will also be speeded. The conservative trend that now appears to be under way in many of the industrial democracies will then gather strength; and unless political leadership falls into irresponsible hands, the inflationary bias that has been sapping the economic and moral vitality of the democracies can finally be routed.●

A NATIVE RETURNS TO EXPLORE THE OLD STREETS OF PROVIDENCE

● Mr. PELL. Mr. President, one of the most promising developments of the seventies has been the revitalization of many of our most treasured urban resources. In city after city throughout the country, residents have joined together to give rebirth to historic downtown areas and rejuvenate them as centers of life and activity.

The city of Providence has been fortunate to have among its citizenry imaginative individuals who envisioned a revitalized downtown Providence as a dream, and now are beginning to see their dream unfold. The New York Times recognized their efforts in the Sunday October 14, 1979 travel section with an excellent article entitled, "A Native Returns to Explore the Old Streets of Providence." The article so effectively cap-

tures the charm and vitality of the new Providence that I would like to share it with my colleagues.

Mr. President, I ask that the article entitled, "A Native Returns to Explore the Old Streets of Providence" be printed in the RECORD.

The article follows:

A NATIVE RETURNS TO EXPLORE THE OLD STREETS OF PROVIDENCE

(By Richard J. Walton)

Thomas Wolfe was wrong. Sometimes you can go home again. I did recently, to Providence, R.I., and found it not at all the dreary, provincial place of my youthful perceptions, a place I could not wait to escape a quarter century ago, but a vibrant, charming city, one of the most attractive medium-size cities in the country, rich in history and culture and uniquely rich in beautiful dwellings and public buildings of the late 18th and early 19th centuries.

With my mature perceptions, I saw that Providence no longer had to be in awe of Boston nearby, a city in whose shadows my home town has lived for three centuries. Boston is rightly proud of its history, but it can be said, without exaggeration, that America as a democracy was born in Providence, for it was there in 1636 that Roger Williams, a refugee from the intolerance of Massachusetts, founded a truly democratic state in America.

Named in "commemoration of God's providence," the tiny settlement at the head of Narragansett Bay was based on religious and politcal tolerance and separation of church and state. More than a century later, on May 4, 1776, in the Old State House (still standing at 150 Benefit Street and used as a courthouse), Rhode Island declared itself independent of the Crown, the first of the 13 colonies to do so.

What is astonishing to one who took it for granted is the extent to which Colonial and Federal Providence still exists. The best way to see it is to wander through the old streets, although there are a half-dozen places—historic buildings, museums and libraries—mentioned below that should not be missed. A stroll through the historic district, a visit to the adjacent downtown area with its old commercial buildings and a tour of the State House, the largest in the nation, can be accomplished in one crowded day or, better, two leisurely days.

There are hundreds of houses spread across College Hill around Brown University dating from the mid- and late-1700's and early 1800's. Since Providence, as a flourishing seaport that rivaled Boston and New York and Philadelphia, had a population of only 7,000 at the beginning of the 19th century, that means a substantial proportion of the dwellings of that era are still standing. As architectural historians point out in terming Providence one of the nation's finest centers of early American houses, College Hill is not a restored area like Colonial Williamsburg but one which has been lived and worked in continuously for more than 200 years.

One street, Benefit Street, has more than a hundred houses considered notable by the Providence Preservation Society, most of them 18th and early 19th century with a scattering of early Victorian. And there are hundreds more on surrounding streets, called by the society "A Mile of History."

Some of these houses are brick mansions in the Georgian style, like the John Brown House at Benefit and Power Streets which John Quincy Adams once called "the most magnificent and elegant private mansion that I have ever seen on this continent." But most of them are simple, symmetrical wooden clapboard houses of graceful proportion. Side by side, block after block of them along tree-shaded sidewalks of herring-bone patterned red brick, they evoke a feeling of timeless harmony. If by some magic the automobile could be banished—and the horse returned—this would be what a prosperous city was like in the early 1800's.

The rich merchants and shipowners built their mansions and the artisans their simple houses on the hill overlooking the harbor and salt marshes that became the commercial center of Providence. And—perhaps needless to say because they were God-fearing men, even those in the nefarious Triangle Trade of New England rum, African slaves and West Indian sugar—they built their churches nearby.

Notable are First Unitarian Church (1816) at Benefit and Benevolent Streets in whose steeple hangs the largest bell cast by Paul Revere and Son, and the Cathedral of St. John (1810) at 271 North Main Street. This latter area, at the foot of College Hill, is where Roger Williams first settled, marked now by a visitors' center operated by the National Park Service. Nothing remains of the earliest dwellings.

The most notable church is the First Baptist Church of America at 75 North Main Street at the foot of College Hill. Roger Williams not only founded the first democratic state in the colonies but brought the Baptist Church to the New World. Williams and a few companions founded the congregation in 1638 near the original settlement.

Two meeting houses were built at the original settlement and then in 1774 a few hundred yards south the present edifice was begun. It was finished a year later and dedicated "For the Publick Worship of Almighty God, and also for holding Commencements in." Although Brown University has long since ended its ties to the Baptist Church (in my Catholic childhood it was sometimes termed a "Baptist seminary"), for reasons of tradition it still holds part of its commencement exercises in the old church—the slow procession down College Hill is an academic ritual out of the Middle Ages.

The construction of so large a church, 80 by 80 feet, was an act of faith. It seated 1,200 and it was built by a congregation of only 118 souls. The visitor to the church will find his eye drawn to Thomas Street, which runs steeply along the north side of the building. The houses, of various early styles, resemble a stage set.

Uphill from the church and just around the corner to the right at 244 Benefit Street is the museum of the Rhode Island School of Design. The museum, although small, is first rate. There are treasures from Greece and Rome, 20 centuries of Oriental art, including a towering Buddha (9 feet 8 inches) from 10th-century Japan, and a collection of French paintings by Manet, Monet, Degas, Cezanne and Matisse plus a Rodin Balzac. Pendleton House, next door, is the first example in the country of an "American wing," with a collection of nearly American furniture and decorative arts.

Across the street, at 251 Benefit, is the Providence Athenaeum. This Greek Revival building designed by William Strickland in 1836 is where Edgar Allan Poe courted his real-life "Annabel Lee," Sarah Helen Whitman. A visitor has the feeling they might still be sitting in one of the secluded alcoves, for the place has not changed. Its rich collection of 18th-century books (from its 1753 ancestor, the Providence Library Company) is just sitting there on open shelves, available to any member. Only the most rare volumes, like the hand-illustrated Elephant Folio of Audubon, are kept separate.

A block south, just beyond the block-square Court House, modern but in Georgian style, is the house of Stephen Hopkins, Rhode Island's only signer of the Declaration of Independence. Built in 1708 and added to in 1743, it is painted that singular dark red peculiar to early New England houses. The rooms are small and simple, as befitted Hopkin's Quaker beliefs, but the house has a lived-in quality. Among the furnishings is a decanter set presented by George Washington to this man who was a judge, then later governor and chancellor of Brown University.

A bit farther south along Benefit Street is First Unitarian Church and, across the street at 314, the 1869 Mansard Victorian house that was the home of Gen. Ambrose Burnside, the Civil War general whose facial adornment gave us the term "sideburns."

A block farther along, set back deeply on a sharply sloping lawn, is the John Brown House (1786), which was designed by his brother, Joseph, and was the first great mansion in Providence. From it John Brown, China trader, slave trader, privateer and patriot, could glaze down at the harbor and here he entertained most of the great figures of the day, including Washington and the Adamses, father and son.

Given to the Rhode Island Historical Society by a descendant, John Nicholas Brown, it has been restored with meticulous attention to historical accuracy. It is of interest not only for the 18th-century furnishings but also for the chinoiserie brought back by John Brown's ships.

By now it is apparent that the Brown family was predominant in Colonial Providence so no one will be surprised that their benefactions caused Rhode Island College to be renamed after them. The Ivy League university, whose perimeters we have been skirting, was founded in 1764.

A stroll through the campus is especially agreeable in the autumn when the air has that quality that New Englanders believe is unique. Enter at the top of College Street, through the Van Wickle gates. Right ahead is University Hall, the first building at Brown, a large Georgian structure where French and American troops were quartered during the Revolution. Student-guided tours leave from here.

Across the College Green is a monumental stone building in the German Ionic Style, the John Carter Brown Library, with its collection of Americana. The collection includes such treasures as eight editions of Columbus's 1493 letter describing his discovery and various early editions of Amerigo Vespucci's "Mundus Novus," which caused the New World to be named after him.

The library inside has bronze bookshelves, heavy wooden tables, green Tiffany reading lamps and displays of old maps, books and broadsides.

On the downhill side of University Hall, next to the big new Rockefeller Library, is the marble-clad John Hay Library, home of the university's special collections. On display are samples, often from the library's Lincoln material, American popular sheet music and, of steadily growing interest, manuscripts and letters of H.P. Lovecraft, whose weird tales, originally published in pulp magazines, are more popular now than when he wrote them early in the century.

At the bottom of College Hill, along North and South Main Streets, are bars, restaurants and shops, some of them in brick warehouses at the edge of the Providence River. Main Street, the city's first shopping thoroughfare, has a number of old public and commercial buildings, several preserved and used by the School of Design, including a Greek Revival building and the 1773 Market House, also designed by Joseph Brown. This brick structure with its fanlight windows, onetime City Hall and Revolutionary barracks, is marked with a line about five and a half feet feet above the sidewalk where the waters reached during the great hurricane of Sept. 21, 1938.

Across the narrow river, now largely paved over, just a couple of minutes' walk from the bottom of College Hill, is the modern

downtown. It began shortly after the War of 1812 when the British blockade caused the Browns and other wealthy families to turn from shipping to industry. Providence quickly became a major industrial center. Downtown grew exuberantly and scores of the old buildings have survived the suburbanization of Providence. Indeed, downtown is undergoing a renaissance with the establishment of a pedestrian mall, the construction of a new department store, the renovation of old buildings and the new uses being found for two old movie palaces.

One of the most interesting commercial buildings in the country is the 1828 Arcade, the first indoor shopping mall in America. In the Greek Revival style with Ionic columns, the building at the beginning of Weybosset Street has three floors of open tiers connected by balconies with a roof of glass panes.

Among the other notable buildings are the 1856 Italian Renaissance Custom House, whose dome and lantern served as a beacon to ships making harbor and the triangular Turks Head Building with its granite columns, winged Assyrian lions and sculptured Turks head. The eccentric Conrad Building (1885) on Westminster near Empire features a Moorish onion dome, a Venetian colonnade, a Romanesque arch, a Queen Anne Corner bay and portrait heads of uncertain origin.

A block away is the old Majestic movie palace (1916) now, as the Lederer Theater, home of the Trinity Square Repertory Company. Nor should one miss the 1809 Beneficient Congregational (Roundtop) Church with its gold dome at the south end of Weybosset Street or the 1878 City Hall, a Victorian pile decorated with all the gaudy opulence of that age.

Impossible to miss, high on another hill overlooking downtown is the huge State House (1896–1901), 333 feet long and 180 feet wide in its center section. With its enormous unsupported dome, it is a rival in grandeur to the national Capitol.

Most interesting inside are the full-length Gilbert Stuart portrait of George Washington and the epaulets, sword and Congressional commission of Gen. Nathanael Greene of Rhode Island, Washington's top general. Also of special interest are the ornate silver service of the battleship Rhode Island, made by the local Gortham Silver Company in 1907, and an artillery piece from the Battle of Gettysburg that was discovered, in 1962, to be still loaded.

Although Providence, with its population shrunk to 200,000, has all the urban problems of the old cities of the North and East, (unemployment, blighted areas and social tensions), it has retained in the old College Hill district a sense of continuity obvious to a visitor but for so long inadequately appreciated by a former resident.●

PRINCETON'S PRESIDENT IN THE NATION'S SERVICE

● Mr. WILLIAMS. Mr. President, the quality of leadership in our Nation is frequently the subject of philosophers, presidents, and political columnists but I think one of the most perceptive pronouncements on that theme was recently offered by President William G. Bowen of Princeton University.

President Bowen, in his quiet and thoughtful manner, made the sound observation that problems faced by political leaders are often more intractable than those of yesteryear. He draws a particular interesting parallel between the growing complexity of our Nation's economy and the difficulty of problem-solving in the public arena.

A column by Mr. Harry Sayen of the Trenton Times in Trenton, N.J., captured not only the reasoning of President Bowen, but some of his own commitment to excellence in academic leadership.

I think the column would make interesting reading for my colleagues and I ask that it be printed in the RECORD.

The article follows:

PRINCETON: STILL IN THE NATION'S SERVICE

(By Harry Sayen)

Cynicism and pessimism are the gravediggers of democracy; both are at work today as never before in our history. The average citizen's distrust of politicians does not need a Gallup Poll for verification. And, as the politicians' stock plummets, so does the peoples' confidence in themselves.

We have come to expect too much of our leaders. In turn, as impossible expectations remain unfulfilled, the man with the easy answer, not necessarily riding a white horse, becomes more and more attractive. The rascals move into the vacuum; morals join the descending spiral.

William Bowen, the 46 year old, low-profile president of Princeton University, put the problem this way: "Let us recognize it is a hard time to be an effective politician. We blame elected leaders for the problems of society. The problems that politicians confront are, in fact, much harder problems than most people realize or are prepared to accept."

Bowen, who still teaches regularly, quoted his favorite Einstein aphorism: "Make everything as simple as possible but not more so."

The Cincinnati-born economist, an aggressive tennis player with an easy smile and an obvious love for his job, suggested that energy is an example of a "very difficult problem that will not be solved without sacrifice by a lot of people. But this is not well understood."

So, to countervail the cynicism, Dr. Bowen believes that the university must continue its "historic commitment to public service, which has been evident from its earliest days, and which was given enduring verbal form through Woodrow Wilson's famous phrase, 'Princeton in the nation's service.' It must encourage students not to believe in sloganeering, not to approach problems with a quick fix and to be more tolerant of ambiguity."

Continuing, Dr. Bowen said: "We try to encourage students to educate themselves broadly, to take a real interest in affairs of the world and not just vocational, educational affairs." He made it clear that "I am not opposed to vocational training, but it has to be combined with other types of learning."

This line of thought led to secondary education. Bowen averred he had "no credentials" but he assumed "that many troubles stem from lowered emphasis on the basic subjects of mathematics and writing—particularly writing and the discipline that is learned. The pressures for vocationalism are so strong in so many places that it makes it harder to find time in public schools for the broader education that is so effective for citizenship."

In Bowen's estimation, there are many reasons making public life so difficult today: "It is hard to get people to think of the greater good. The special interest groups push for what they want, so it is hard to get a majority for things."

And then there is the changed role of the United States in the world: "We are no longer in a dominant economic position. It is not as easy to get our way because there are other powerful actors on the stage."

As an economist, William Bowen recognizes the depth and complexity of the economic problems. He mentioned higher unemployment of the young and inflation: "We must address our problems realistically. In time, self-correction is possible, but it may taken even worse circumstances to drive people to action—more shortages before conservation, which is absolutely the key. It isn't dramatic or easy."

All of the factors—economic, political, and social—combined with Vietnam and Watergate have led to the low estimation of leadership. This perception of lack of strength in governance has created a void. And the tumultuous reception for Pope John Paul II is a strong indicator of a yearning to fill that void. There was love to be sure; there was faith and charity; but hope—hope for leadership—was the purport of the Papal visit.

The pope's answers to today's malaise—of sharing more, of wanting less—were not easy ones. But if those goals are outlined in an understandable way, people will respond—as they have in wartime. Making sacrifice believable and palatable is the genius of leadership. With that type of leadership, the gravediggers of freedom would have little work to do.●

PROPOSED ARMS SALES

● Mr. CHURCH. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive advance notification of proposd arms sales under that act in excess of $25 million or, in the case of major defense equipment as defined in the act, those in excess of $7 million. Upon such notification, the Congress has 30 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulates that, in the Senate, the notification of proposed sale shall be sent to the chairman of the Foreign Relations Committee.

In keeping with my intention to see that such information is immediately avaliable to the full Senate, I ask to have printed in the RECORD the following notification I have just received:

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., October 1, 1979.

Hon. FRANK CHURCH,
Chairman, Committee on Foreign Relations, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 80-08, concerning the Department of the Army's proposed Letter of Offer to Jordan for defense articles and services estimated to cost $33.4 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

ERNEST GRAVES,
Director,
Defense Security Assistance Agency.

Attachments.

[Transmittal No. 80-08]

NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER

(Pursuant to Section 36(b) of the Arms Export Control Act)

(i) Prospective Purchaser: Jordan.
(ii) Total Estimated Value:

(In millions)

Major defense equipment*	$0.0
Other	33.4
Total	33.4

*As included in the U.S. Munitions List, a part of the International Traffic in Arms Regulations (ITAR).

(iii) Description of Articles or Services Offered: Product improvement for the Jordanian Improved Hawk air defense system to include system modifications and associated spare parts; technical and logistics assistance; installation, integration, test, inspection, and repair services; and required training.

(iv) Military Department: (Army (UXV).

(v) Sales Commission, Fee, etc. Paid, Offered or Agreed to be Paid: None.

(vi) Date Report Delivered to Congress: October 11, 1979.

MEETING TOMORROW OF COMMITTEE ON FOREIGN RELATIONS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be permitted to meet during the session of the Senate tomorrow to markup the SALT II treaty.

Mr. BAKER. Mr. President, reserving the right to object, the majority leader and I have discussed this matter in the course of the day, and I believe he knows, as does the distinguished chairman of the committee, that it will be necessary for me to object.

I reiterate what I have said earlier. I am perfectly willing to sit down with the chairman and the ranking minority member of the Committee on Foreign Relations to try to work out a schedule that will permit us to consider the SALT treaty in due course and expeditiously.

So it is not possible for me to agree to the unanimous-consent request just made by the majority leader for the Committee on Foreign Relations to meet beyond the 2 hours that the rules permit.

I object.

The PRESIDING OFFICER. Objection is heard.

Mr. CHURCH. Mr. President, reserving the right to object, I appreciate the Senator withholding his objection. I would like to be heard on this subject.

Mr. President, there never has been a time in the history of the Committee on Foreign Relations when so thorough an examination of a treaty has been undertaken as has been the case with the SALT II treaty.

The committee has heard in public session from more than 100 expert witnesses. We have had innumerable executive sessions in addition to our public hearings. These sessions have consumed the whole of the month of July, the whole of the month of September, and a good portion of October. We have compiled more than 4,000 pages of testimony and have undertaken to be as thorough and careful in our examination of the treaty as is possible.

Now we are proceeding with a markup that began on Monday afternoon. The markup itself will be time consuming, under the best of circumstances. It had been my hope that the committee could meet in the morning and in the afternoon each day. If the Foreign Relations Committee cannot meet when the Senate is in session, we cannot complete the markup in any reasonable length of time.

Since the markup commenced. we have had three sessions. We are presently on section 3 of article II of the treaty, which would indicate, I think, that we have some good long distance to go.

So I hope, Mr. President, that objection would not be raised. I do not even know what Senator is objecting. I only know that the objection comes from the Republican side of the aisle.

If the committee cannot meet during the time when the Senate is in session, this markup will be unduly prolonged. The only purpose that an objective would serve at this time would be to prevent the entire Senate from taking up the treaty in a timely fashion.

I am sorry that this objection has been raised. Last week the committee in a business meeting approved its mark-up schedule. I think the committee is entitled to proceed as had been scheduled both morning and afternoon mark-up sessions.

Mr. HART. Mr. President, reserving the right to object, I am not a member of the Committee on Foreign Relations. However, as a member of the Armed Services Committee and one who has spent a good deal of the last year and a half or 2 years studying this treaty as it evolved, following it as an announced proponent of the treaty, I have spent a great deal of time in my State talking to my constituents about this issue, because I strongly believe it is the most important issue this body will take up in a number of years.

During the last few trips into my State, the question I have been asked most often—next to "When is Congress going to act on inflation?"—is, "When does Congress, and the Senate particularly, intend to take up the SALT treaty?" That comes from people who are in favor and those opposed and those who just do not know.

I hope that whatever objections there are will be overcome as quickly as possible, so that the distinguished Senator from Idaho can move forward and can have the treaty on the floor of the Senate and get the public focus on it which I think it deserves. Whether it goes up or down, at least the American public would have heard a full debate, at a reasonable time this fall, on this very vital issue.

I understand the leadership position in which the Senator from Tennessee finds himself. I believe the objection does not come from him. In any case, I suppose it is irrelevant.

I just wanted to add a word to that of the Senator from Idaho, that I hope the Committee on Foreign Relations could move forward as quickly as possible and in a methodical way, which I believe it to be doing.

I withdraw any objection.

Mr. GLENN. Mr. President, I had not planned to get into this discussion, but I think I will, since I spoke on this subject in the committee hearing this morning.

Our distinguished chairman, the Senator from Idaho, is correct when he says that we have gone through some 2,000 pages of testimony.

I do not know how many hundreds of hours of hearings we have had on this subject up to this point.

The hearings have been thorough enough and have ventilated all the issues enough so that there are very serious questions and serious concerns.

I appreciate that we are trying to make the trains run on time around here, and we are trying to make this come through before the NATO group gets together in December. But these questions are serious enough that it is far more important at this stage that we consider them very carefully.

What was our proposed hearings schedule? So that it also goes into the RECORD, the proposed hearings schedule that we still have on the books as of this moment is that we were going to meet every Monday afternoon and Friday afternoon and morning and afternoon on Tuesday and Thursday.

That obliterates any other activities that any Senators on the Foreign Relations Committee may have.

I conducted another committee hearing this morning that had been set up for sometime on another subject and was an hour late getting there. So I missed some of our morning hearing, and it was a matter on which I was vitally concerned.

I know our rules; and the way we have set this up and the way the chairman and the ranking minority member have set it up is that we will have adequate time at the end of the hearings to bring up anything that we do have to miss. I appreciate that we have set it up that way.

But what I proposed this morning was that we set up 3 half days a week. We will have our homework done and have our amendments already distributed and answered. So we will know our views on things and come in there ready to work and ready to go rather than having the interminable discussion we do now by only partial preparations by many members of the committee, including myself, simply because we do not have time, with our other responsibilities here, to do the proper job that needs to be done.

The remarks of the distinguished Senator from Colorado are right on the mark. I think that we probably will not consider another item that exceeds this in importance in quite a while around the Senate. But for that very reason I want to consider this treaty absolutely in the fairest light and have it as correct as it can be, as perfect as it can be before it comes to the Chamber.

I think the alternative to that is to say that we still have some question marks hanging on around this treaty when it comes to the Chamber, and all we will do is move our discussions to the Chamber for unlimited debate in the Chamber.

I do not want to see that happen. I think we will save time in the long run by taking our reasonable time. I do not want to extend consideration of the treaty into the new year in any way, shape, or form. I want to get it done. But I am far more concerned that we do this job right and that we not rush as a committee which I feel we are doing now. That is the reason why I supported the view this morning in committee that we go to a little less rigorous schedule in committee, and it will enable us then to perform some of the other functions that we on the committee have to perform.

I canceled two other hearings this week already and obviously if this goes on for several weeks we will be doing absolutely nothing in the Senate except our Foreign Relations Committee duty on this or we will be missing the markup which I think is probably the most important markup that any of us may participate in for a number of years.

I thank the Chair.

The PRESIDING OFFICER. The time for morning business has expired.

EXTENSION OF MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the time be extended for 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I assured the Senator from Missouri we will have plenty of time.

Mr. BAKER. Mr. President, there is no objection to that. But I wish to make sure that without consuming any more of the time allocated to morning business the Chair notes my objection to the request with respect to the Foreign Relations Committee.

The PRESIDING OFFICER. The objection has been noted.

Mr. BAKER. I thank the Chair.

Mr. ROBERT C. BYRD. Mr. President, I urge Senators to accommodate the Senate as much as possible in the request for committees to meet, especially the Foreign Relations Committee which is considering the treaty and which is at the markup stage now, the Finance Committee which is working on the excess profits tax bill, and the Energy Committee which is working on the energy bill.

Of course, the Appropriations Committee has standing consent.

Mr. President, I am not one to urge that we rush the markup on the treaty. I think the markup should be conducted with due deliberation but without unnecessary delay.

And I say that because I think it is important that the treaty be marked up and be reported out and placed on the calendar at the earliest feasible date, considering the need for careful deliberation in the markup, and I know that the committee is proceeding in that way.

But may I say, Mr. President, that it is my desire to take up the treaty before we adjourn this session. If that is not possible, we will just not have a very long holiday for Christmas and New Year's, and we will come back in January and continue.

I do not see any point in delaying the treaty. If the Senate wants to vote it down, that is the Senate's business. If the Senate wants to approve it, then let it be.

But I hope that Senators will not object to the committee meeting in an effort to duly act on the treaty and get it marked up and reported.

Mr. CHURCH. Mr. President, will the Senator yield on this point?

Mr. ROBERT C. BYRD. Yes.

Mr. CHURCH. Mr. President, I agree with the distinguished Senator from Ohio (Mr. GLENN), who is a very able member of our committee, that the hearings having been very thorough have posed a number of issues that must be faced and met during the markup. That is all the more reason, it seems to me, that the committee be given adequate time.

Mr. ROBERT C. BYRD. They do not even have time to discuss it.

Mr. CHURCH. I know of no way to proceed to meet a schedule that I regard as reasonable and in the national interest unless the committee can meet both in the mornings and in the afternoons. Time is running out.

Mr. ROBERT C. BYRD. Yes.

Mr. CHURCH. There is a national interest here by virtue of the impact of the Senate's decision, or the impact of a failure to make a decision, on our allies. Particular note must be made of the NATO alliance, and the attempt to reach an accommodation with our NATO allies respecting the modernization of the theater nuclear force. For this reason, it serves the national interest to proceed with all deliberate speed to do the job that the committee must do, mark up this treaty, and bring it to the full Senate. Once the treaty is on the Senate Calendar the majority leader can call it before the Senate at an appropriate time, before this session has been concluded.

Mr. ROBERT C. BYRD. Mr. President, I would not do that without consulting with the chairman of the committee, the ranking minority member of the committee, and the minority leader, as I always do.

May I say to my friend from Ohio, Mr. GLENN, that making the trains run on time has nothing to do with this treaty. So I wish to debunk that idea right here and now categorically. Trains running have nothing to do with this treaty. But, as I understand it, representatives of the NATO countries will meet in mid-December to make some decisions on theater nuclear force modernization, and that decision may very well be determined one way or the other by whatever action the Senate takes on the treaty.

Mr. CHURCH. Or fails to take.

Mr. ROBERT C. BYRD. Or fails to take. If the treaty is delayed, not that I intend to run the schedule of the Senate on the basis of the NATO allies, but the United States is one of the group, and what those NATO allies decide with respect to theater nuclear force modernization is of very great importance to this country and to its security interests.

So we are not making the trains run on time. We are dealing with the security interests of this country one way or the other. If the Senate wants to reject the treaty, I am not finally locked in yet one way or the other on the treaty. If the Senate wants to reject the treaty, that is one thing. Let the world know that the Senate voted not to approve it. But let us get a decision, not making the trains run on time, but let us get a decision in due time and without delaying the committee in its markup.

I am not a member of the committee, but the problems that confront the committee can only be handled if the committee is meeting. They can only be disposed of one way or the other when the committee meets and Senators deliberate on them.

I have nothing more to say.

Mr. CHURCH. Mr. President, if the Senator will yield to me once more, I see the able Senator from New York (Mr. JAVITS) is here, the ranking member of the committee, so I thought it would be appropriate for me to say that the procedures governing the markup, together with the schedule, the calendar for the committee, have been agreed upon by the committee itself in the regular manner. It has not been the decision of the chairman nor indeed the decision of the ranking minority member nor of the two of us together, but rather the decision of the entire committee that has established the schedule that we had hoped to follow during the course of the markup.

I am sorry that objection is being raised.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER (Mr. STEWART). Time for morning business has expired.

ORDER FOR RECESS UNTIL 4 P.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until 4 p.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, I think now I control the time at the request of the Senator from Kentucky, the whole time.

Mr. JAVITS. Mr. President, will the Senator yield 1 minute?

Mr. STEVENS. I promised the Senator from Missouri, and if he agrees the Senator can proceed.

Mr. DANFORTH. Of course.

Mr. STEVENS. I yield 1 minute to the Senator from New York.

MEETING OF THE NORTH ATLANTIC ASSEMBLY IN OTTAWA NEXT WEEK

Mr. JAVITS. I would like to note for the RECORD, and I think this is an opportune moment to do so, that the North Atlantic Assembly, composed of parliamentarians of the NATO countries, meets in Ottawa next week, and a great opportunity, I hope, will be availed of to confer with our fellow parliamentarians who have very definite opinions on SALT II as seen from their vantage point in Ottawa.

There is going to be a plane going up Thursday night with the official delegation, and I hope that Members will take note of this as an opportunity for a real chance to learn how our European colleagues feel about SALT II in the course of that annual conference.

I thank my colleague.

Mr. STEVENS. I thank the Senator.

I hope, I know, the Senator from West Virginia, I am sure, is familiar with the Ottawa conference, and perhaps if we get enough interest in people getting up there, we can make an arrangement to provide attendance. That is something we should negotiate with him.

EXTENSION OF ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to proceed in morning business for 2 minutes.

Mr. BAKER. Mr. President, will the majority leader extend it for 2 more minutes so that the distinguished Senator from Missouri and I might speak on another matter?

Mr. ROBERT C. BYRD. Mr. President, will the Senator permit me to dispose of these two items?

Mr. BAKER. Yes.

TECHNICAL CORRECTIONS IN THE ENROLLMENT OF H.R. 3173

Mr. ROBERT C. BYRD. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on House Concurrent Resolution 196.

The PRESIDING OFFICER (Mr. STEWART) laid before the Senate House Concurrent Resolution 196 directing the clerk of the House of Representatives to make technical corrections in the enrollment of H.R. 3173.

The concurrent resolution (H. Con. Res. 196) was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

DIRECTING SENATE LEGAL COUNSEL TO REPRESENT RONALD A. CHIODO

Mr. ROBERT C. BYRD. An employee of the Senate, Ronald A. Chiodo, has been subpenaed to testify at a deposition in *Art Metal-U.S.A., Inc.* v. *Rowland G. Freeman, III, et al.*, (C.A. No. 78-1660), pending in the United States District Court for the District of Columbia. Mr. Chiodo is staff director of the Subcommittee on Federal Spending Practices and Open Government. The subpena asks for various documents. Today the Senate need only resolve to direct the Office of Senate Legal Counsel to represent Mr. Chiodo. A further resolution may be necessary in respect to the production of documents.

I send a resolution to the desk and ask that it be stated by the clerk.

The PRESIDING OFFICER. The clerk will state the resolution by title.

The legislative clerk read as follows:

Senate Resolution 259, directing Senate legal counsel to represent Ronald A. Chiodo, a Senate employee.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that further reading of the resolution be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask that the Senate proceed to its immediate consideration.

The Senate proceeded to consider the resolution.

The resolution was agreed to.

The resolution (S. Res. 259), together with the preamble, was agreed to as follows:

Whereas, in the case of *Art Metal-U.S.A., Inc.* v. *Rowland G. Freeman, III, et al.*, (C.A. No. 78-1660), pending in the United States District Court for the District of Columbia, a subpoena has been issued and served upon Ronald A. Chiodo, an employee of the Senate, directing him to appear and give testimony and produce documents, papers, or records.

Whereas, title VII of the Ethics in Government Act of 1978, Public Law 95-521 ("the Act"), establishes the Office of Senate Legal Counsel and provides that the Senate may direct its Counsel to represent the Senate, its committees, Members, officers, or employees.

Resolved, That pursuant to section 704(a)(2) of the Act the Senate Legal Counsel is directed to represent Ronald A. Chiodo, a Senate employee, in respect to discovery in this case.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

FOURTEENTH CENTENNIAL OF ISLAM

The concurrent resolution (S. Con. Res. 43) honoring the 14th centennial of Islam, was considered and agreed to.

The amendment to the preamble was agreed to.

The preamble was agreed to.

The concurrent resolution, with its preamble, reads as follows:

Whereas November 21, 1979, marks the fourteen hundredth anniversary of the founding of Islam, an event which will be commemorated throughout the world, including in the Holy Cities of Islam; and

Whereas Islam is one of the mankind's great religions in history and today, followed by approximately eight hundred million people encompassing every major region of the world; and

Whereas the word "Islam" derives from Abraham's willingness to accept all God's commands, an example profoundly meaningful to all monotheistic religions; and

Whereas the "House of Islam" extended gracious hospitality to philosophy and science in both the East and West when these scholarly disciplines were threatened by narrowness and prejudice, thus preserving this precious heritage for subsequent generations; and

Whereas Islam strives for a worldwide community which, in the words of one Islamic poet-philosopher, "does not recognize the superficial differences of race, or history, or nationality"; and

Whereas the United States and countries of the Islamic world hold in common many benefits and values including the concept of world community, which inspired the Founding Fathers of our own country; and

Whereas international understanding and peace are strengthened by free and open communications among nations representing various historical and religious traditions: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Islam is hereby recognized for the rich religious, scientific, cultural, and artistic contribution it has made to mankind since its founding.

SEC. 2. The Congress takes note of the contribution of Islam and wishes success to the fourteenth centennial commemoration.

SEC. 3. On the occasion of this anniversary, the Congress pledges its efforts to achieve better understanding, reduction of tensions, and the pursuit of improved relations with all nations of the world.

SEC. 4. The Congress requests that the President forward a copy of this resolution to the Chief of State of each country where Islam has a significant following and where celebrations will mark this important international event.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the concurrent resolution was agreed to.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. BAKER. Mr. President, I yield to the Senator from Missouri.

FOOD FOR CAMBODIA

Mr. DANFORTH. Mr. President, it is well known that over a period of time considerable blood has been shed in the nation of Cambodia. The fighting continues to go on. The result of this fighting is that planting and harvesting of crops has been interrupted, and now there is a very substantial food shortage, to the point where there are estimates that somewhere between 2 million and 3.5 million Cambodians are now facing loss of life through starvation.

It is estimated that because of the fact that younger people are affected by starvation before anyone else, some 80 percent of Cambodia's children are now suffering slow death from starvation and from disease.

Cambodia will need approximately 165,000 tons of food supplied to it by the outside world within the next 6 months in order to avert the kind of catastrophe that has been predicted for the people of that country.

Yesterday in Kansas City, Mo., President Carter, to his great credit, announced that our country will commit itself to a total of $7 million in expenditures, $5 million for food and $2 million for various support services, which would buy 10,000 tons of food. That 10,000 tons of food is certainly a step in the right direction, Mr. President, but the fact of the matter is that an estimated 165,000 tons will be needed between now and 6 months from now.

There is an additional $15 million available for the purchase of food in the Food for Peace Program. The total of $20 million, the $15 million left and the $5 million the President has obligated, could be used to buy 45,500 metric tons of rice or 125,000 metric tons of wheat. Additional money for transportation of food could be furnished by the Disaster Relief Fund and the Refugee and Migration Assistance Fund.

Mr. President, I think that when an estimated 2 million to 3.5 million people are starving to death, the politics of those people—and, of course, most of them have no politics—should be the last of our considerations, and that the United States should be in a position to put political considerations to the background for the moment, and that we should put people interests absolutely first.

The United States can, if it wants to, commit itself to furnish, with or without multilateral help, all of the food needs of Cambodia—165,000 tons over the next 6 months. We can, if we want to, transport that food to Cambodia. Initially we could do it by airlift, and then, as time permits, we could do it by ship.

It is notable that one of the finest hours of our country's history was in 1948 and 1949, when, for an 11-month period of time, the United States flew into West Berlin 140,000 tons of food each month. Planes were landed every 3 minutes, on the average, in Berlin, because the United States had the compassion to deal with human needs. Mr. President, I believe that the United States has the same sort of opportunity right now—that it is a matter of literally saving hundreds of people's lives, and that it is also a matter of the whole image of our country, not only to the rest of the world but internally as well. This is an opportunity to show the rest of the world and the people of the United States what kind of country we are, what kind of contribution we can make to human needs, and how we use a continuing opportunity to alleviate the hunger, the starvation, and the deaths that are now going on in Cambodia.

So, Mr. President, I commend the President of the United States for his efforts to date. I would urge him to consider even more efforts in behalf of the people of Cambodia, and I would pledge to him the support of at least this Member of the U.S. Senate for any additional help that he can give to the people of Cambodia.

Mr. BAKER. Mr. President——

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. BAKER. I rise to commend the distinguished Senator from Missouri for his remarks, his evident compassion, and his concern for an impending possible human tragedy.

It was my privilege to discuss this matter with him earlier today, and to remark, as we did in that conversation, on the appropriateness and the high moral tone of the President's remarks in Kansas City. This afternoon I called the President of the United States to tell him of my concern for this subject, and to extend my congratulations to him for his initiative.

I believe it is well, Mr. President, to signal that in this matter, as the Senator from Missouri has indicated, there is no politics, and to assure him that there is every desire on our side of the aisle to proceed to a solution of this problem on a nonpartisan basis. I congratulate the President for his effort and his statement at Kansas City, and I pledge to him our support insofar as I can assure that support to implement that program at the earliest and most prompt moment.

I extend my congratulations to the Senator from Missouri for his analogy to the Berlin airlift. The historic proportions of that noble effort are precisely what is required to avert this impending human tragedy. So, Mr. President, it gives me great pleasure to commend two great Americans, in this case the President and the distinguished Senator from Missouri, for their compassion and concern, and to offer these modest remarks in support of their initiative.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, tomorrow the Senate will come in at 4 p.m. After the two leaders or their designees have been recognized under the standing order, the Senate will proceed to the consideration of the conference report on the energy conservation bill, which contains the standby gasoline rationing plan, S. 1030. There will undoubtedly be a rollcall vote, I assume, on that matter.

RECESS UNTIL 4 P.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the order previously entered, that the Senate stand in recess until the hour of 4 o'clock tomorrow afternoon.

The motion was agreed to; and, at 6:39 p.m., the Senate recessed until Wednesday, October 17, 1979, at 4 p.m.

HOUSE OF REPRESENTATIVES—*Tuesday, October 16, 1979*

The House met at 12 o'clock noon.

Rabbi Harry Z. Sky, Temple Beth El, Portland, Maine, offered the following prayer:

Friends, as we stand in this Hall, at history's crossroads, the concerns of the world pass before our minds and eyes. We address ourselves to the needs of our country's citizens, and we respond to the cry of mankind. A prayer crosses our lips. Dear Father, let the spark that is You within us burn aglow. Let it seek the spark flickering in the soul of another, and together let a flame of devotion burst forth creating a new Heaven and a new Earth and one eternal glory of divine self-sharing. For life is divine self-sharing; the sharing of concern, the sharing of hope, the sharing of love, the sharing of a dream—a dream of peace for all mankind, a dream of lives replete with fulfillment. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate had passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 4473. An act making appropriations for foreign assistance and related programs for the fiscal year ending September 30, 1980, and for other purposes.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 4473) entitled "An act making appropriations for foreign assistance and related programs for the fiscal year ending September 30, 1980, and for other purposes," disagreed to by the House; agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. INOUYE, Mr. PROXMIRE, Mr. CHILES, Mr. JOHNSTON, Mr. LEAHY, Mr. DECONCINI, Mr. MAGNUSON, Mr. GARN, Mr. HATFIELD, Mr. MATHIAS, Mr. SCHWEIKER, and Mr. YOUNG to be conferees on the part of the Senate.

RABBI HARRY Z. SKY

(Mr. EMERY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. EMERY. Mr. Speaker, it gives me great pleasure to be accompanied today by Rabbi Harry Sky, a distinguished and respected citizen of my district. An activist in civil, State, and national issues as rabbi of the Temple Beth El in Portland, Maine. He is also a scholar, a teacher at the University of Southern Maine, and holds honorary doctorate degrees from Nasson College in Maine and a doctorate degree from the Jewish Theological Seminary of New York. A member of the Portland Rotary Club and chairman of the Human Relations Council, he is involved in a wide range of human affairs programs and civic causes.